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COMMITTEE ON THE RIGHTS OF THE CHILD

Twenty-fifth session

SUMMARY RECORD (PARTIAL)* OF THE 642nd MEETING

Held at the Palais Wilson, Geneva,
on Monday, 18 September 2000, at 10 a.m.

Chairperson: Ms. OUEDRAOGO

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ADOPTION OF THE AGENDA

SUBMISSION OF REPORTS BY STATES PARTIES

* No summary record was prepared for the rest of the meeting.

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GE.00-44454 (E)

The meeting was called to order at 10.05 a.m.

OPENING OF THE SESSION

1. The CHAIRPERSON declared open the Committee's twenty-fifth session and emphasized the ambitious schedule facing the Committee which would be considering nine country reports, including seven initial reports. In addition, a full day of general discussion would be dedicated to the theme of State violence against children, and the Committee would continue its work on a general comment to be issued in early 2001 on article 29 of the Convention to serve as its contribution to the forthcoming World Conference against Racism, Racial Discrimination, Xenophobia and Related Intolerance. The Committee would also consider means of improving its working methods. She welcomed Mr. Gaham, Chief of the Support Services Branch, Office of the High Commissioner for Human Rights, and invited him to address the Committee.

2. Mr. GAHAM (Office of the High Commissioner for Human Rights (OHCHR)) said that since the last session of the Committee, the Secretary-General of the United Nations had taken the occasion of the Millennium Summit, which had been attended by some 150 heads of State and Government, to call for the universal ratification of all international human rights instruments and to appeal to States to ensure that OHCHR would have the resources required to fulfil its mandate once full ratification was achieved. The Annual Appeal issued by OHCHR in 2000, which in part covered the plans of action in support of the treaty bodies, had received a positive response. The Millennium Summit and the Secretary-General's specific call for support had given new impetus to the signing of both Optional Protocols to the Convention on the Rights of the Child. To date 68 States had signed the Optional Protocol on the involvement of children in armed conflict and 63 had signed the Optional Protocol on the sale of children, child prostitution and child pornography.

3. OHCHR had begun working on the report of the Secretary-General for the special session of the General Assembly on the promotion and protection of the rights of the child, scheduled for September 2001. The amendment to article 43 (3) of the Convention, increasing the Committee's membership from 10 to 18, had been accepted by 92 of the required 120 States. The rights of the child had figured prominently in the work of a number of other human rights bodies, including the Working Group on Indigenous Populations and the Committee on the Elimination of Racial Discrimination.

4. At the recent session of the Preparatory Committee for the World Conference against Racism, Racial Discrimination, Xenophobia and Related Intolerance, it had been decided to hold an informal session in January 2001 which would be open to all States, in order to deal with certain procedural matters and to move ahead in drawing up a draft declaration and programme of action for adoption at the Conference. It was therefore of the utmost importance that the treaty bodies should respect the deadlines for the submission of their reports and contributions, to ensure that the Preparatory Committee and the Conference would be able to take their views into consideration.

5. OHCHR had undertaken a series of regional seminars on human rights in Africa, Latin America, Asia and Europe, some of which had included the participation of members of

the Committee. Lastly, the Committee's attention was drawn to the most recent Human Development Report issued by the United Nations Development Programme, which had focussed exclusively on the theme of human rights and development.

ADOPTION OF THE AGENDA (item 1 of the provisional agenda) (CRC/C/98)

6. The agenda was adopted.

SUBMISSION OF REPORTS BY STATES PARTIES (agenda item 3)

7. Mr. DAVID (Secretary of the Committee) said that, since the Committee's previous session, initial reports had been received from Gabon, the United Arab Emirates, Mozambique, Andorra, Malawi, Bahrain and Guinea-Bissau, and that Jamaica, the Libyan Arab Jamahariya, the Syrian Arab Republic and Morocco had submitted their second periodic reports. That brought the number of reports received to 194, including 153 initial reports and 41 periodic reports. The Committee had considered 131 reports; 42 initial reports and 104 periodic reports due to have been submitted had still not been received. Owing to the backlog, the Committee currently considered reports one or two years after their submission.

The discussion covered in the summary record ended at 10.35 a.m.

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COMMITTEE ON THE RIGHTS OF THE CHILD

Twenty-fifth session

SUMMARY RECORD OF THE 643rd MEETING

Held at the Palais Wilson, Geneva,
on Tuesday, 19 September 2000, at 10 a.m.

Chairperson: Ms. OUEDRAOGO

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CONSIDERATION OF REPORTS OF STATES PARTIES

Second periodic report of Finland

This record is subject to correction.

Corrections should be submitted in one of the working languages. They should be set forth in a memorandum and also incorporated in a copy of the record. They should be sent within one week of the date of this document to the Official Records Editing Section, room E.4108, Palais des Nations, Geneva.

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GE.00-44478 (E)

The meeting was called to order at 10 a.m.

CONSIDERATION OF REPORTS OF STATES PARTIES (agenda item 4)

Second periodic report of Finlan (CRC/C/70/Add.3; HRI/CORE/1/Add.59/Rev.2; CRC/C/QFIN/2; written replies of the Government of Finland to the questions in the list of issues (document without a symbol distributed in the meeting room in English only)

1. At the invitation of the Chairperson, Ms. Taipale, Mr. Heikkilä, Ms. Siitari-Vanne, Ms. Lindroos, Ms. Heiliö, Ms. Sarvanto and Ms. Oinonen (Finland), took places at the Committee table.

2. The CHAIRPERSON invited Ambassador Huhtaniemi to introduce the members of the delegation.

3. Mr. HUHTANIEMI (Finland) introduced the Finnish delegation and invited Ms. Taipale, the head of the delegation to present Finland's report.

4. Ms. TAIPALE (Finland) said that the protection and promotion of children's rights was an essential part of Finnish human rights policy. Finnish child rights legislation had been largely drafted and reformed on the basis of the Convention on the Rights of the Child, which had entered into force for her country in 1991. While the Convention enjoyed almost universal acceptance, there was still a need to monitor implementation of the rights of vulnerable groups, such as children, and her delegation looked forward to a constructive dialogue with the Committee in that regard. She was impressed by the Committee's detailed study of Finland's second periodic report which, together with the Government's written replies, spelled out the legislative and administrative reforms achieved since 1998.

5. Her country had lately signed the two Optional Protocols to the Convention, on the involvement of children in armed conflict and on the sale of children, child prostitution and child pornography, which represented an important step in enhancing the protection of children's rights. Finland had actively participated in the preparatory working groups on the Protocols and national measures were afoot for their ratification in 2001. The Conscription Act had been amended to prevent both male and female volunteers and conscripts under 18 from entering military service.

6. Like other Nordic countries, Finland was dismayed at the rapid spread of child pornography via the Internet and had taken national and international measures for its prevention. The production, distribution and possession of such material was punishable under the Penal Code, and new provisions on sexual offences in general which had entered into force in 1999 made it a criminal offence to procure the sexual services of a minor under 18. The country had finalized a programme of action for the prevention of the commercial sexual abuse of children in December 1999.

7. With regard to child labour, Finland had signed International Labour Organization Convention No. 182 on the Prohibition and Immediate Action for the Elimination of the Worst Forms of Child Labour, which would enter into force for the country in January 2001. Child labour was prohibited in Finland and temporary work by youngsters was strictly regulated by the amended Young Employees Act. Under the Finnish Constitution and legislation, persons under 18 were not entitled to undertake any form of work covered by ILO Convention No. 182.

8. Many developments had taken place in national legislation and administration since 1998 where Finnish child policy and legislation were concerned. Finland's consistent family policy traditionally provided children with comfortable living conditions. The country with the world's lowest infant mortality rate, Finland's birth rate was one of the highest in Europe and its teenage abortion rate was minimal. Day care was available to all children. The Finnish welfare state was founded on the principle of provision of the entire array of basic services for all, a situation that had further improved in recent years. The family as an institution had remained unchanged despite societal changes that had undermined the concept of the family. A report entitled "Finnish Child" submitted to the Committee contained recent statistics of society from the child's point of view. The rights of children belonging to national minorities - principally Sami and Roma - were protected by special legislation.

9. The best interests of the child had long been paramount in Finnish child policy and legislation, as evidenced by the 1983 Child Custody and Right of Access Act and Child Welfare Act, both consistent with the Declaration of the Rights of the Child. The definition of child custody - the aim of which was to ensure that children were cared for according to their individual needs, enjoyed affectionate relationships and a stimulating educational environment and received the supervision appropriate to their age and maturity - was one criterion for assessing a child's best interests with regard to custody, access and welfare. Although the Convention had long been applicable as law in Finland and appeared in the Statutes, its provisions on children's best interests and their right to express an opinion had been deliberately reproduced in the Act on the Status and Rights of Clients Using Social Welfare Services, due to enter into force in January 2001, in order to encourage all parents and social workers to give them due attention.

10. The 1995 revised provisions on fundamental rights, which set forth the principle that fundamental rights belonged to all natural persons residing in Finland, had been incorporated into the new Constitution, which had entered into force in March 2000. The Constitution guaranteed that children should be treated as equal individuals and allowed to express their views in all matters affecting them, according to their maturity. While children were explicitly mentioned in the provisions on social security and freedom of expression - with some age restriction regarding the right to vote - others, such as those concerning the right to free education, concerned them especially although they were not specifically mentioned.

11. The right to education was a cornerstone of Finnish child policy. The legislation on schools had been amended early in 1999 to ensure that all fundamental rights relating to education were exercised equally in all regions and all educational establishments. It defined more clearly a pupil's rights and duties, including the right of upper secondary students to be heard in decisions affecting them significantly. The new legislation further laid down children's right to - and the obligation of education providers to ensure - a mentally and physically safe school environment and to apply to the school of their choice.

12. The pre-school education reform which had taken effect in August 2000 provided for at least 700 schooling hours per child in the year preceding compulsory education through a system of subsidies to municipalities. Although 90 per cent of needs were already covered voluntarily by municipalities, by August 2001 they would all be obliged to make such arrangements, without prejudice to a child's right to day care under the Children's Day Care Act. Furthermore, Parliament's recent system for evening out child welfare costs, whereby municipalities would receive State subsidies to ease their burden, would be closely monitored, and its adequacy in ensuring services to all children in need would be assessed.

13. Although children requiring special care were protected under the Mental Health Act, the Ministry of Social Welfare and Health was preparing a reform of the child welfare legislation in an effort to establish treatment units for children with special needs stemming from substance-abuse or crime-related problems. Children's mental health problems were currently the subject of discussion at the national and local levels. The European Court of Human Rights had recently pronounced judgement in three child welfare cases involving Finland. In two it had accepted the Government's view, although it had ruled in one case that the court proceedings had been excessively long and in the other that the domestic court had not provided an oral hearing. In the third case the Court had ruled against Finland, which had requested a referral to the Grand Chamber, as the case would constitute an important precedent for subsequent application of the Child Welfare Act.

14. The 1999 Act on the Integration of Immigrants and Reception of Asylum-Seekers required reception centres to provide minors with services appropriate to their age and maturity and the authorities to provide the approximately 100 children who arrived in Finland unaccompanied every year with a legal representative to protect their various interests. Also, the amended Aliens' Act provided for greater attention to the requirements of a child's best interests, development, health and expression of opinion, for a more detailed definition of a family member and for residence requirements based on family ties. A later amendment provided for DNA-testing for establishing such ties in an effort to reduce the traffic in persons. The current reform of the Finnish Nationality Act would make children equal before the law regardless of their birth, and would reduce from 15 to 12 the age at which a child's opinions could be taken into account.

15. Where planned legislative projects were concerned, one which most affected young people was a proposed amendment to the Penal Code concerning general principles of law. While the age of liability would remain at 15, sentences imposed on minors under 18 would be reduced: the maximum sentence for a crime punishable by life imprisonment decreased from 12 to 10 years' imprisonment and a special juvenile sentence was provided for offences where a fine or imprisonment was considered inappropriate.

16. In conclusion, she said that Finland was determined to prohibit sexual abuse of children in any environment. Accordingly, the Ministry of Justice had recently set up a working group to examine how the legislation could be amended to provide for investigation of the background of applicants for jobs involving children so as to ensure that no person convicted of a sexual offence could be recruited.

17. The CHAIRPERSON thanked the delegation of Finland and invited the Committee members to put questions concerning general measures of implementation and the definition of the child.

18. Ms. RILANTONO thanked the delegation for its comprehensive opening statement and the frank and constructive written replies provided by the Government. She applauded the fact that the country's non-governmental organizations had been able to air their views at a meeting in 1998, thereby increasing their involvement in the preparation of the second periodic report. She also commended the fundamental changes in the implementation of the Convention, encouraged by the 1995 legislative reform. The country's economic recovery following the 1990 recession had also improved the situation of children, although many challenges remained to be addressed. Despite the State party's compliance with most of the Committee's recommendations in 1996, one matter of concern was the fact that coordination of the many child welfare activities undertaken by diverse administrative sectors was not the prime task of any ministry. Although an office of Assistant Parliamentary Ombudsman had been created, there was still need for an office that dealt specifically with children's rights.

19. She was pleased to learn that a training programme for childcare workers had been included in the continuing education programme at the University of Helsinki; how did the Government plan to train professionals such as law enforcement officers, judges and mental health officers.

20. Turning to the question of children's views being heard, she asked about implementation of the Act on the Enforcement of Decisions Concerning Child Custody and Right of Access. Certain sources had confirmed that children's views were heard in some cases, with the exception of children in custody. She hoped that the Government Bill for the amendment of the Aliens' Act, expected to be passed in December 2000, would increase the opportunity for children to express their views.

21. Mr. DOEK commended Finland for its efforts to combat child labour; it had been one of the first countries to ratify ILO Convention No. 182 concerning the Prohibition and Immediate Action for the Elimination of the Worst Forms of Child Labour and was an important donor to the International Programme on the Elimination of Child Labour (IPEC).

22. However, many questions remained about the effects of decentralizing Government to the municipal level. In coordinating implementation of the Convention, for example, how was it ensured that differences did not constitute discrimination, and how did the system work in practical terms? If the child welfare budget had been cut down to ease the burden on municipalities, and that the municipalities were receiving additional financial support from the central Government, what was the proportion of each party's contribution? He also inquired whether conditions were attached to Government grants.

23. Lastly, he would like to know the outcome of the State party's decision to entrust the Assistant Parliamentary Ombudsmen with children's matters before determining whether a children's ombudsman was necessary.

24. Ms. MOKHUANE noted that in its reply to question 5 of the Committee's list of issues (CRC/C/Q/FIN/2), the Government indicated that a child policy programme was implemented in 150 of the 400 municipalities; she asked about the situation in the remaining ones. She would also like to know the reason for the delay in translating the Convention into the Roma language, an issue which had been taken up with the State party by the Human Rights Committee in 1988. Could the delegation clarify the Government's position on the Optional Protocol to the Convention on the Rights of the Child on the involvement of children in armed conflict?

25. Mr. FULCI said that the State party had an effective system of checks and balances with regard to children's rights which involved both Government and non-governmental sectors and that the fair distribution of wealth in Finland had had a positive impact on children's welfare. The Committee appreciated the fact that the State party referred in its report to the Committee's previous recommendations. However, not all recommendations had been followed and some gaps could be detected in the information provided.

26. A report by an NGO, the Central Union for Child Welfare, stated that a compendium relating to children's rights had been published by the Ministry of Foreign Affairs in Finnish and English but was now out of print. He wondered whether that situation would be remedied and also whether the Government intended to address the need for training professionals, such as social workers, teachers and lawyers, a point raised by the same NGO.

27. Ms. SARDENBERG asked whether the State party intended to ratify the International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families. The core document (HRI/CORE/1/Add.59/Rev.2) stated that the province of the Åland Islands enjoyed "internationally guaranteed autonomy". She asked what was meant by that expression and how the Government of the Åland Islands was organized. What was the region's relationship with the central Government and how was the Convention implemented there?

28. Although the economy had picked up, unemployment levels remained high. What was the basis for the statement that the impact of the recession had not been as significant as expected? Had any studies been done in that regard, and what was the correlation between unemployment and the economic recovery?

29. She would like to know the reason for the delay in setting up the office of the Assistant Parliamentary Ombudsman and whether there was coordination between the activities of the different Ombudsmen. Did they each deal with children's issues?

30. Ms. KARP asked the number of children under 16 years in Finland and why 15 was used as a reference whereas the Convention defined a child as a person under 18. She complimented the State party on its pioneering child-focused statistics, and expressed interest in knowing how the data collection system functioned. Perhaps Finland had advice to offer other States parties in that regard.

31. Over and above translating the Convention as a formal document into the different languages, she wondered whether its underlying principles had been presented as relevant to everyday life, which she believed was fundamental to the spirit of the Convention. Had

discussions about the Convention focused on the coordination between ombudsmen and had the issue of the lack of a Government focal point been raised? Although the State party was to be commended on several scores, she had the impression that its treatment of children's issues was more fragmented than holistic.

32. Mr. RABAH, quoting the statement in the report (CRC/C/70/Add.3 that one of the greatest challenges in the field of family law would be the harmonization of the law with the changed family structure, asked whether there was difficulty in harmonizing Finnish law in general with the Convention's provisions. He wondered how the independence of the ombudsmen was guaranteed and asked the difference between the Parliamentary Ombudsman and the Chancellor of Justice.

The meeting was suspended at 11.15 a.m. and resumed at 11.25 a.m.

33. Ms. TAIPALE (Finland) said that Finland had a long tradition of local independence. Political commitment was strong in small municipalities as they were responsible for providing various services such as primary and specialized health care, library services, facilities for the disabled and day-care centres. A comprehensive reform at the beginning of the 1990s had resulted in increased grants to municipalities, which, although bound to act in accordance with the law, were allowed flexibility in its implementation.

34. The State subsidy system was rather complicated. For instance, in the area of social welfare and health, the size of government grants depended on the economic situation of the municipality. Municipalities had the power to levy income taxes, which financed services, with the Government supplying the shortfall. However, during the recession, the State's contribution had been reduced by half, making it difficult for municipalities to honour their commitments. Nevertheless, poor municipalities could be subsidized by over 50 per cent, in some instances. It had been suggested that the system should be modified to give the State more control, as was the case in the other Nordic countries.

35. A 10-year assessment of the independence of the municipalities in the provision of services had shown that the difference in their expenditures had decreased rather than increased. Municipalities were very eager to expand and develop the level of services they could provide. Quality assurance systems had been established, and the quality of care, guidance, and equipment was nationally regulated. Some municipalities were more efficient than others, and could provide greater care with the same amount of funds. A national information system, accessible on the Internet, had been established, and districts could easily study and compare the quality and efficiency of other programmes, a service of particular interest to the hospital districts.

36. Although the independence of the municipalities in the provision of care had been largely successful, Parliament was seeking to impose more control over them. It also was taking measures to increase funds for children's mental health. Although the 11 provincial boards that governed the 250 or so independent municipalities had been merged into five, local offices had not been closed or moved, and continued to cover the same regions; the streamlining of the provincial boards had not significantly affected the provision of services.

37. The use of the phrase "cutting down" was a mistranslation: in fact the child welfare system was increasing funds for child welfare. The Government had not yet established an official translation of that new concept.

38. The Child Welfare Act gave municipalities the responsibility for children's living conditions, and municipalities, in turn, had established child welfare policies. Her office, the National Research and Development Centre for Welfare and Health, was offering guidance in that process, while not actually handing down decisions. The matter of coordination was a complex one, since more and more ministries were involved in planning for child welfare. And yet, since the country was small, people belonged to the same circles and networks, and the system somehow worked.

39. NGOs had such a strong role in decision-making at all levels that they were jokingly referred to as the biggest party in Parliament. The Finnish Government had created a programme under which NGOs owned all the slot machines in the country, which provided them with independence and a financial basis for their activities.

40. Mr. HEIKKILÄ (Finland) said that the recession of the early 1990s had been the most severe since the Second World War. Surprisingly, however, the overall poverty rate had increased only half a per cent, and the poverty rate was not higher than average for families with children. Studies were still under way on the consequences of that recession for Finnish society; there was no evidence of any lasting impact. The poverty risk increased when there were more than two children per family, but the average Finnish family was well below that figure. Both during and after the recession, the poverty rate had been low and the unemployment rate high throughout the society. In general, adults with small children tended to maintain their employability, demonstrating that motivation was an essential factor. In fact, there were families in which children had never seen adults go to work, essentially creating a culture of poverty: that question was a sensitive one in Finland.

41. There were three types of families: traditional nuclear families, unmarried couples who were cohabiting, and single-parent families, headed mostly by mothers. In Finland's view, society must adapt the provision of social benefits to the changing social reality: it should make no difference whether parents were married or whether adults caring for children were their biological parents. Under the comprehensive child welfare system, however, the level of support paid to families was related to household income, and that could be difficult to establish if adults were cohabiting or not in fact biological parents. An adult sometimes made a claim at a social welfare office without mentioning the existence of another adult in the household, for instance.

42. Ms. HEILIÖ (Finland) said that the Finnish Government had instituted a system designed to make it easy for parents to settle matters regarding the care and guardianship of their children, and in particular, to ensure that children had real parents, regardless of whether or not they were married. Finnish legislation currently provided that a cohabiting father could appear before the social welfare board and "confess" his paternity. If there was no reason to suspect the truth of his "confession", it would be forwarded to the courts, which would confirm paternity. Men who "confessed" to fatherhood were not necessarily their children's guardians. Parents could, however, make agreements regarding the father's guardianship, which would then be legally confirmed by the social welfare board.

43. Ms. TAIPALE (Finland) said that since the Assistant Parliamentary Ombudsman performed special functions regarding children and since many NGOs were active in that area, it was unlikely, in the current political atmosphere, that a separate children's ombudsman would be created. At any rate, no provision had been made for such a purpose in the current budget.

44. Ms. SIITARI-VANNE (Finland) said that, under the terms of the Finnish Constitution, the Parliament appointed the Parliamentary Ombudsman for a period of four years, and that only Parliament was empowered to dismiss him. The powers of the Ombudsman were related to the rights of citizens, and provisions pertaining to his responsibilities could be established by law. The Ombudsman held the primary responsibility for protecting the rights of persons in prisons and mental institutions and of members of the armed forces.

45. Ms. TAIPALE (Finland) said that, although professional training had been a particular goal of women in Finnish society, and although all health and welfare services were staffed by professionals, further work was called for in the area of specialization in children's rights.

46. Ms. LINDROOS (Finland) said that new legislation adopted in early 1999 had taken into consideration the children's rights standpoint. At all educational levels - local, provincial, and national - schools were required to conduct their own evaluations to determine to what extent the goals of the curricula had been fulfilled; those findings were incorporated into legislation, which consequently reflected the real needs of children. The national board of education was responsible for designing the national curriculum, which was used locally throughout the country.

47. The Convention had been incorporated into the curricula of teacher-training programmes at all educational levels, and training programmes directly related to children's rights had been set up at provincial, local and alternative schools. Training programmes in children's rights had also been launched for municipal decision makers.

48. Ms. HEILIÖ (Finland) said that, while not entirely satisfactory, the measures taken to provide special training on the Convention for persons dealing with children were a good start. Examples included seminars for child welfare social workers, three-day training courses on the best interests of the child for administrative court judges who dealt with child welfare, and annual refresher courses for judges from civil courts, who heard cases related to child custody and other family matters. The idea that legislation should be interpreted in the light of the Convention was gaining currency in Finland. A retraining programme was under way for forensic psychiatrists, with a focus on how to hear the wishes and determine the best interests of the child in cases involving criminal behaviour in the family, in particular sexual abuse or ill-treatment. The child psychiatric unit was regularly consulted in the most difficult cases involving child abuse and custody. Its specialists were currently researching new methods of interviewing children in such cases. The Ministry of Social Affairs and Health conducted a vast programme called the Networking Project for Special Social Services, which was aimed at supporting small, rural communities in dealing with social welfare cases, and the specialists who underwent such specialized training were an integral part of that project.

49. Ms. OINONEN (Finland) said that the Ministry for Foreign Affairs published human rights instruments and Finland's periodic reports to the various treaty bodies in a publication

series, and had also issued a special publication devoted to the Convention on the Rights of the Child, which had enjoyed a great deal of success. Another publication called "United Nations Human Rights Instruments" included the text of the Convention, along with others, and was distributed free of charge. The text of the Convention was also available in various Finnish law books, which contained a special section on basic rights and human rights, in libraries, and through public databases accessible in Finnish, Swedish and English at schools and other public places. The Government intended to ratify both optional protocols to the Convention within a year, following which the Ministry for Foreign Affairs would issue new publications including those texts as well.

50. The Convention had been issued in Finnish and Swedish, the two national languages, and also in Northern Sami, which was by far the most prevalent Sami language. Although nearly all the Roma children in Finland spoke Finnish as a mother tongue, the Government was considering its translation into Romany, as it was important to disseminate the Convention in all the minority languages.

51. Ms. TAIPALE (Finland) said that the Finnish Government had recently adopted a new approach to statistics, which placed the child, rather than the household, at the centre of statistical analysis The new approach offered information, for instance, on the average distance between a child's place of residence and that of his grandparents or other relatives.

52. Ms. SARDENBERG recalled that, in its concluding observations on Finland's initial report, the Committee had noted its concern at the insufficient attention paid to the need for an efficient coordination mechanism between various ministries, as well as between the central and local authorities (municipalities), in the implementation of policies relating to the rights of the child. Since that time, the lack of a focal point or single ministry responsible for the implementation of the Convention had remained problematic, according to some NGOs. Coordination was especially important in the case of the Convention because its implementation involved numerous sectors. It was therefore critical for the Government to be aware of the various perspectives and of the need effectively to integrate them in implementing its policies. Given the extremely complex nature of the rights of the child, one might wonder what impact the lack of central coordination had had on the implementation of the Convention.

53. While it was a step in the right direction to assign the rights of the child and children's issues to the Assistant Parliamentary Ombudsman the statement that Finland was unable to establish an ombudsman's office specifically for children owing to economic reasons was difficult to understand. The title of "assistant" left some doubt as to the priority given to children's issues. Did the Assistant Parliamentary Ombudsman have a specific mandate to handle such matters? What exactly were the Ombudsman's terms of reference?

54. Unemployment, even if it affected very few families, was a serious factor that must be taken into consideration, as each and every child was of concern to the Convention. While it was laudable that the Government monitored the situation of children whose parents had never held a job, it would be interesting to know what links existed between such monitoring and effective and practical public policies to help such families. Did any of the three human rights research institutions mentioned in paragraph 24 of the periodic report devote studies to the situation of such children or such families? The question of the importance of social and biological

parenthood was of much interest, as throughout the world situations were becoming more prevalent in which divorced, separated, unmarried or remarried parents raised children with varying degrees of biological relationship in the same household. Had any research been conducted into the legal and other situations of such children, with a view to drawing up public policies to address their needs? With reference to the Åland Islands, she said that Finland as a State party was obliged to ensure the implementation of the Convention throughout its territory, regardless of the autonomous status of any part of the country. Lastly, was it true, as she had read in the documentation provided by an NGO, that the word "child" had been eliminated from the State nomenclature?

55. Mr. DOEK asked the delegation's opinion of a proposal put forward by the Central Union for Child Welfare for the establishment of an intersectoral board within the Government to deal with children's issues. The Committee had been informed that the incomes of families without children had risen in the past decade, while the incomes of those with children had fallen, sometimes by a great deal. He would appreciate comments from the delegation about that trend. According to the periodic report, some two thirds of accidents involving children were preventable. What had been the effectiveness of the measures taken to reduce such accidents? The periodic report addressed the question of the right to identity for adopted children who sought information about their natural parents, but made no mention of policy with regard to the rights of children conceived through artificial insemination or in vitro fertilization. Were they entitled to information about their biological fathers?

56. In a recent case brought before the European Court of Human Rights entitled "K. and T. v. Finland", the Court had been called upon to decide whether the authorities in Finland had violated the right to respect of family life of a mother who had been deprived of her children, including one immediately at birth, because of mental disorders. It was difficult to assess the best interests of the child in such cases. Was there any special procedure involving social workers and other experts to assist in that task? The European Court had in its judgement expressed concern that the Social Welfare Board had not sufficiently considered alternatives to the removal of the child from the mother's care. There was reportedly concern in Finland about the level of efforts and resources devoted to family support activities with a view to keeping children in their homes. Had the Court's decision led to any discussion of the need for intensive family support services?

57. Ms. RILANTONO supported the suggestion of the Finnish NGO concerning a multisectoral council for child policy. She had heard of a youth council for art and culture, and inquired as to whether that body included the participation of children's groups. Lastly, did children in Finland always have the last name of their fathers, or could they opt to take their mothers' last names?

58. Ms. KARP asked whether the Government was considering changing its statistical methodology to cover children up until the age of 18 instead of 15, and what steps had been taken to change data collection methods to give better consideration to children's perspectives. The delegation had informed the Committee that every municipality must have a child policy. In her opinion, it was important for the Government to elaborate such a policy at the national level. Communities and municipalities could then adapt their policies to meet local needs.

59. According to the new legislation on education, children in upper secondary schools were ensured the right to participate and to have their views heard. Did that mean that children at lower educational levels did not enjoy such rights, and if so, was that because it was considered that they were unable to express their points of view? The part of the periodic report devoted to article 6 of the Convention presented information on the right to life and survival, but made no mention of policy on children's physical, cognitive, emotional and mental development. Such a policy might relate to the child in accordance with his or her personal capacities, or define certain children's age groups, which generally corresponded to various capacities. By granting the right to participate and have their views heard exclusively to children in upper secondary schools the authorities appeared to be giving little importance to the subjective, personal capacities of the child. She would like to know how children's right to development was implemented in Finland. How were evolving capacities defined, and how were resources allocated to meet needs?

The meeting rose at 12.55 p.m.

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Rights of the Child

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COMMITTEE ON THE RIGHTS OF THE CHILD

Twenty-fifth session

SUMMARY RECORD OF THE 644th MEETING

Held at the Palais Wilson, Geneva,
on Tuesday, 19 September 2000, at 3 p.m.

Chairperson: Ms. OUEDRAOGO

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CONSIDERATION OF REPORTS OF STATES PARTIES (continued)

Second periodic report of Finland (continued)

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Any corrections to the records of the public meetings of the Committee at this session will be consolidated in a single corrigendum, to be issued shortly after the end of the session.

GE.00-44550 (E)

The meeting was called to order at 3 p.m.

CONSIDERATION OF REPORTS OF STATES PARTIES (agenda item 4) (continued)

Second periodic report of Finland (CRC/C/70/Add.3; HRI/CORE/1/Add.59/Rev.2; written replies of the Government of Finland to the questions in the list of issues (document without a symbol distributed in the meeting room in English only))

1. At the invitation of the Chairperson, the Finnish delegation took places at the Committee table.

2. Ms. SIITARI-VANNE (Finland) said that since the Åland Islands were an autonomous province with legislative powers, international conventions ratified by Finland applied there only if the province's legislative assembly gave its consent for their entry into force.

3. Ms. LINDROOS (Finland) said that the ILO Migrant Workers Convention had not yet been ratified by Finland, but the Government was currently considering the preconditions for its ratification.

4. Ms. TAIPALE (Finland) drew attention to the fact that the work done for children had made necessary some coordination in the field, particularly in small municipalities, even when it was not formalized. The Government had submitted a report to Parliament on the national children's policy, in which reference was made to the main principles of the Convention. One of the mainstays of the plan of action currently under way for 2000-2003 addressed children and their specific needs, and the Government was making efforts to support the implementation of policies adopted by the local authorities. Many stakeholders were involved in the protection of children, and the coordination was provided not by a single mechanism, but by several coordinating bodies. Despite their efforts, however, the follow-up of measures and activities could be improved. There had been no appropriation in the coming year's budget for the establishment of a post of ombudsman, but that question was currently being considered.

5. Addressing the question on the nomenclature in administrative services, she said that certain bodies had been merged during the most recent administrative reform. Consequently, the administrative unit responsible for family and children's affairs had been integrated into a larger body in charge of social protection and health services and policy.

6. Mr. HEIKKILA (Finland) pointed out that in 1998 the number of mothers who had stopped working to benefit from the allowance paid by the State to mothers who cared for their children at home had increased, and the corresponding decline in income could in part account for the increase in the proportion of persons under 18 living below the poverty line, as indicated in the most recent statistics. The reduction of family allowances for its part helped to explain why in the 1990s it was the disposable income of families with children that had declined most heavily. The national statistics did not group all children aged under 15 in the same category. The current system made it possible to give a breakdown of children by age group of five or less years.

7. As for the impact of research on policies, several studies containing information collected directly from children had been published recently, and decision-makers therefore had specific data on the everyday problems faced by children.

8. Ms. LINDROOS (Finland) emphasized that the National Youth Council, which comprised some 100 associations, was very active and was constantly developing its activities, which ranged from the training of local youth social workers to the publication of periodicals and the setting up of a specialized Web site. The National Education Council produced informational material on the Convention and funded other bodies engaged in such activities. The Association of Finnish Local and Regional Authorities played an important role in that field, producing informational material for use at schools. Another important means of informing children about the Convention consisted in using school curricula. Steps had already been taken to bring them up to date in that regard.

9. Many measures had been instituted in education, including through legislation, to take account of children's opinions and encourage students of all ages to become more involved in their schooling. Performance evaluation was central to that effort. It was intended to be more interactive, and certain schools were even attempting to develop self-evaluation. A serious effort was being made to promote dialogue between teachers, students and parents. Some of the projects currently being implemented, the most important of which was the "Learning to Learn" project, were aimed at broadening the role of teachers, supporting them with other children-related professionals and encouraging students to play an active role. The national development plan for 1999-2004 also called for measures towards that end.

10. Ms. TAIPALE (Finland) pointed out that the number of children killed in accidents had fallen in recent years, while the number hospitalized owing to injury had risen. Finland took part, inter alia, in the European Union's accident prevention programme, emphasizing road safety, helmets for cyclists, precautions against drowning and poisoning, and product safety. Most accidents affecting children in Finland took place outside the home.

11. Ms. SIITARI-VANNE (Finland) said that the bill on artificial insemination to be submitted to Parliament in 2001 called for records to be kept permanently with the name of the donor (subject to his consent) and a personal description written by the donor himself. The donor could remain anonymous for as long as he lived. Upon turning 18, the child would have the right to try to enter into contact with him through the competent services.

12. The criteria for determining a child's name were the following: if the mother was single, the child bore her name. If the father recognized the child at birth, the child bore the father's name. If the parents had the same family name, the child would have that name. If each had a patronymic, they could choose the one the child would bear, provided the child's siblings would share the same name. The child's name could in no case be changed without his or her consent if he or she was over 12, and under that age the child's opinion was taken into consideration.

13. Ms. HEILIO (Finland) stressed that the number of children placed in care was small compared with the total number receiving assistance. The procedure for assessing those children's family situation involved all of the criteria established in article 1 of the Child Custody and Right of Access Act, founded on the principle of the best interests of the child.

The social workers, psychologists and psychiatrists involved in the assessment were expected to take those criteria into account. A study on the protection of children placed outside a family environment had nevertheless shown that parental rights usually took precedence over the interests of the child.

14. Mr. HEIKKILA (Finland) said that his country had a standing committee responsible for matters concerning the Roma and measures to promote their integration fell into five broad categories: housing assistance, enrolment of children in nursery school, the fight against dropping out of school, adult vocational training, and promotion of the Roma language and culture. Significant progress had been made in the last category, and classes were currently available in Roma grammar, literature and language.

15. Ms. RILANTONO inquired what measures were being taken to stop the production and dissemination of pornographic material for paedophiles. Regarding mental health, would it be possible for prevention programmes to target the escalating problems by concentrating on the family environment? Also, what was Finland doing to remedy the shortage of staff specialized in the treatment of children suffering from mental illness? Lastly, were steps being taken to mitigate the effects of the shortage of Roma language books and teachers, and to promote instruction of Roma children?

16. Mr. FULCI observed that, despite the Committee's recommendation in 1996, Finland had not adopted all the necessary measures to prevent mentally-ill children from being placed in the same wards as adults and that, according to the assistant to the Parliamentary Ombudsman, psychiatric treatment was administered unlawfully. It would be useful if the delegation could clarify those points.

17. It had been indicated in the written replies that about one quarter of 14-18-year-olds probably used drugs at least once a month. One might therefore ask why the youth welfare services appeared unable to cope with the situation and whether measures had been taken to fight that scourge.

18. Mr. DOEK, remarking that child suicide prevention measures particularly targeted very young children, asked what happened to adolescents and how long the children in question were monitored. On the subject of ill-treatment, was it already possible to assess the effectiveness of the programme to combat domestic violence against women and children? Did the Finnish Government envisage setting up, as suggested by the Central Child Welfare Union, multidisciplinary centres for education on sexual abuse and treatment of victims?

19. He wished to know to what extent the principles set forth in the Charter of the European Association for Children in Hospital were followed in Finland, since, according to some accounts, young patients were not separated from adults in Finnish hospitals, paediatric services had been or were about to be closed down, and children suffering from chronic ailments received no school or pre-school education. He would be grateful for some additional information.

20. Mr. RABAH asked why the number of children removed from their families was on the increase and whether solutions were being considered to halt that trend. On the subject of child abduction, he would like to know whether Finland had signed bilateral agreements with other

countries containing humanitarian provisions on behalf of parents. Regarding adoption, was it a court that made the decisions, and what was the procedure? Were there any correctional centres for young offenders? If so, what rehabilitation methods were used?

21. Ms. KARP requested further information on strategies for the exercise of a child's right to development, which was directly linked to adolescent mental health. Given the change in the composition of the population in recent years with the arrival of immigrants and refugees, she wondered whether the campaign to eliminate corporal punishment was continuing and, if so, whether it was conducted in tandem with the campaign against domestic violence. She would also like to know the findings of the research on discrimination against women mentioned in the report. With regard to children's right to express their views in decisions concerning them, why had the mosaic of special provisions not yet been replaced by a general provision?

22. Ms. MOKHUANE asked for clarification concerning family welfare programmes. The report did not specify exactly which illnesses were referred to in connection with the withdrawal of custody from mentally-ill parents. In fact, only certain mental illnesses really justified placement in a foster family, and it was in the child's interest to preserve emotional ties with the parents. Was that interest taken into consideration in the case of infants? Furthermore, did not forced sterilization of mentally handicapped women conflict with the right to non-discrimination enshrined in the Convention?

23. Ms. SARDENBERG noted that there was only one man, a teacher and researcher, in the Finnish delegation. That seemed to bear out the observation of the Committee on the Elimination of Discrimination against Women that in Finland girls were encouraged to move towards fields traditionally considered to be reserved for women, while men were destined for science and research. In addition to those stated in the report, was the Government taking any initiatives in the field of education to guarantee girls the same opportunities as boys?

24. She would like to know whether a mechanism for detecting domestic violence existed, since, according to the report, such violence was a disturbing problem in Finland. She also asked whether parallel research was being conducted on that subject and on violence against women.

25. Mr. DOEK asked for further information on pre-trial detention of minors: what discretionary powers did the police enjoy, what role did the public prosecutor play, and what was the maximum duration of such detention? Were all cases to be decided by a judge?

26. Ms. KARP, recalling that four committees had recommended that Finland should create an independent body to investigate police brutality, asked whether measures had been adopted to that end.

27. Ms. TAIPALE (Finland), referring to the mental health of children, said that the number of cases of psychosomatic diseases had increased among young children and adolescents in relation to 1970. Psychotic illnesses were extremely rare among children, and most disorders could be treated in outpatient clinics. Finland ranked third in the world for the ratio of child psychiatrists to population, and yet there appeared to be a lack of specialists on the ground, doubtless because of misuse of qualified human resources.

28. The Ministry of Health had requested district hospitals to report to it all cases in which children had not been separated from adults in health units and was closely monitoring the five hospitals reported. Finland was a member of the European Association for Children in Hospital, whose principles had been disseminated to paediatric units 10 years previously. Some paediatric services had been closed down owing to surplus capacity. There had been no restriction on the times and duration of parental visits to children in hospital since the 1970s.

29. In Finland alcohol abuse, especially among young people, was a very disturbing problem. Many people drank for the sole purpose of becoming drunk, a problem rooted in climate and culture. Every effort had been made to combat that scourge, but the State had achieved good results only in its fight against smoking, for instance.

30. So far young people had shown little interest in narcotics and other illicit drugs, but the situation was changing with drug traffickers' attempts to develop the Finnish market. The Government was doing everything in its power to prevent the situation from deteriorating and to avoid the mistakes made by other countries, even though the political parties did not always agree on the appropriate policy.

31. Ms. HEILIO (Finland) explained that any couple wishing to adopt a child was required to consult beforehand the social welfare department of the municipalities or certain NGOs certified by the authorities, which were responsible for determining whether candidates were really in a position to look after a child. Adoption decisions were taken by the courts.

32. The Government intended to amend the legislation on child protection in the near future in order to make treatment compulsory for parents who, because of their propensity to alcoholism or drug abuse, endangered their children's lives. That law would also provide for measures to safeguard the rights of children for the duration of such treatment.

33. In recent years, new methods had been perfected for helping mothers in difficulty to establish a relationship with their young children. However, for psychiatric or other reasons connected with drug abuse or alcoholism, a mother might not be in a position to take care of her child, who must then, in its best interests, be entrusted to a foster family: the child then became attached to the family, making it difficult for the child to return to its original family. In any event, it was the best interests of the child that must prevail in any decision concerning it.

34. Ms. SARVANTO (Finland) said that, to her knowledge, only four children had been abducted in Finland by their fathers or mothers to be taken to Russia. Even in the absence of any new affair of that kind in recent years, Finland had started negotiations with the Russian Federation with a view to including provisions concerning child abduction in bilateral treaties between the two countries. Finland planned to open talks on that subject with other countries, including certain North African countries. Since December 1999 a brochure on international abduction of children had also been circulated to help parents, judges and the police forestall such abductions and react appropriately in such an eventuality.

35. Ms. SIITARI-VANNE (Finland) explained that the production, distribution and possession of pornographic material for paedophiles had been punishable under criminal law since 1999. A new law on censorship of pornographic films and books, which was soon to enter into force, provided among other things for the competent authorities to establish at what age a child would be authorized to see a particular film.

36. On the subject of juvenile offenders, in September 2000 there were 11 prisoners under 18 - all male - in Finnish prisons; 7 of them were awaiting trial and the other 4 had been sentenced. An alternative penalty was imposed whenever possible. Minors sentenced to a prison term were placed in a facility for young offenders. Detention of young offenders awaiting trial lasted one month on average. The public prosecutor could still decide, not to prosecute a young offender, especially for a minor offence.

37. Ms. LINDROOS (Finland) said that all children in hospitals received education suited to their situation, and the respective syllabus was devised in collaboration with their parents, teachers and hospital staff. The Ministry of Education intended to introduce a health education course in pre-primary and primary education, as in secondary education.

38. Children of Roma immigrants received special education, imparted partly in their own language; selections of texts and grammar books had been prepared for the purpose, and training had been provided for teachers familiar with Roma language and culture. Lastly, the booklet "Roma students in school" was intended to familiarize teachers with Roma culture.

39. Mr. HEIKKILA (Finland) stressed that a variety of measures had been taken to encourage girls to show more interest in certain subjects and to increase the proportion of girls among mathematics, physics and chemistry students to over 40 per cent by 2002.

40. The vast majority of social workers, teachers and health care personnel were women. The Government had recently created a special committee to look into the consequences of that situation, since social workers played an important role in awarding custody of children in separation or divorce cases. The question was whether the fact that there were far more women might not influence their decisions.

41. Ms. TAIPALE (Finland) said that under the legislation concerning disabled persons, recognition of the handicap did not necessarily depend on a medical diagnosis. The assistance needed by a disabled person depended partly on the environment in which that person lived, and partly on his or her functional capabilities. Certain services nevertheless, required a medical diagnosis, especially treatment of a sick or disabled child. It should be pointed out that Finnish legislation relating to sick children was extremely complex and efforts might be needed to explain it to parents. In any event, families with sick or disabled children received considerable support.

42. Sterilization of mentally-retarded individuals had indeed taken place in the 1940s and 1950s, and in isolated cases even in the 1960s, but the law now prohibited that practice; assistance on sexual matters, including contraception, could be provided where necessary to such persons.

43. With regard to separation from parents suffering from psychiatric disorders, any decision depended on the seriousness of the depression and the psychiatric background of the parent in question. In some cases, such as post-partum depression, the mother could be treated without losing custody of her child. Finland had also elaborated programmes describing for children the symptoms of the disorder suffered by their parents, allowing them better to understand their behaviour. In that way a link was created between parents and children and the family remained intact. If, on the other hand, the parent became violent, the best interests of the child dictated its separation from the family.

44. On the subject of corporal punishment, various opinion polls had shown that some 8 per cent of children had been victims of violence. Violence against women also existed. Numerous information campaigns had therefore been organized to sensitize the public, social workers, the police and the medical profession to the problem. A variety of programmes had been undertaken to assist women victims of such violence.

45. A set of measures had been taken to combat commercial sexual exploitation of children, especially via the Internet. The State particularly assisted Internet access providers in defining their own code of conduct in that area.. The importance of the medical profession's role in investigations of cases of presumed sexual abuse could not be overemphasized. The primary health care system was already fully computerized and practitioners had at their disposal a CD-ROM on good practices in the treatment of sick children, into which there were plans to incorporate a module on investigation mechanisms for cases of sexual abuse.

46. Ms. HEILIO (Finland) explained that the newly adopted Act on the Status and Rights of Clients Using Social Welfare Services authorized social workers, hitherto bound to professional secrecy, to disclose to the police any violent behaviour they were aware of and to testify before the courts in such cases. That provision targeted only the most serious cases; in others priority was accorded to education and training. Following a meeting devoted to sexual abuse of minors and to the relevant investigation and reporting mechanisms, attended by police officers, judges, social workers and child psychiatrists, Finland had decided to set up a specialist group to define a regulatory framework for the reporting procedure.

47. The provisions of article 12 of the Convention had been transposed into domestic law, since the article of the Constitution provided that children had to be heard and their views duly taken into account, according to their maturity. On the subject of health, section 7 of the Act on the status and rights of patients also embodied the right of minors to be heard and to express their views - their level of maturity permitting - on the treatment intended for them. That same law further recognized the right of minors to refuse to allow information about their state of health to be disclosed to their legal representatives, in accordance with article 16 of the Convention, which protected a child from interference with his or her privacy.

48. Ms. LINDROOS (Finland) pointed out that the school safety committee had recently published a report on violence and attacks on children and adolescents at school. That report was currently under consideration and its conclusions should result in an amendment of the legislation in force. To address the violence their children faced on a daily basis in the small Finnish village of Laukaa, parents had mobilized themselves and launched an educational project designed to inculcate good manners and decent language in children, in order to avoid

playground brawls and teach them not to steal, without punishing them. By so doing they hoped to prevent their children from committing more serious offences. Now a pilot project, the Laukaa scheme was being replicated in several of the country's municipalities.

49. Finland had a high proportion of women teachers, and attempts were currently under way to reverse that trend with a vast training programme that envisaged the creation of numerous posts; men were being encouraged to consider a career in teaching.

50. Mr. DOEK asked whether a child's age was taken into account before the child was removed from parental custody. After the age of six months, placement in a foster family and eventual return to the biological family might well be profoundly traumatic for children.

51. On the subject of sexual abuse and neglect, experience had shown that granting health professionals the right to report ill-treatment did not change a great deal. It was important for them to be able to do so, but they also had to be protected from civil or criminal prosecution. Even in good faith, doctors often preferred not to report presumed cases for fear of prosecution.

52. Ms. SARDENBERG noted that most of the problems experienced by Finland - the situation of Roma and Sami children, refugees, inequality between the sexes in education, the preponderance of female teachers and so on - could probably be attenuated through integrated action in a holistic approach to the Convention. She therefore encouraged the Finnish Government to formulate a national children's strategy based on the principles contained in article 2 of the Convention.

53. Ms. KARP endorsed Mr. Doek's remarks concerning the reporting of cases of sexual abuse; it would be preferable for the social services rather than the police to be approached, since the initiation of a police investigation could have serious repercussions on family unity.

54. Turning to the new methods of instruction that placed dialogue before authority, she said that school teachers and principals should be helped to adapt to new education methods through the creation of special facilities. The same principle could be applied in the field of justice, especially concerning attention to the views of children. After consultation with experts - including health professionals and jurists - Finland should consider creating instruments in the form of protocols, for instance, for the implementation of the Convention in that respect.

55. Ms. RILANTONO read out the Committee's draft concluding observations.

56. The CHAIRPERSON thanked Finland, on behalf of the Committee, for ratifying the amendment to article 43 of the Convention.

The meeting rose at 6 p.m.

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COMMITTEE ON THE RIGHTS OF THE CHILD

Twenty-fifth session

SUMMARY RECORD OF THE 645th MEETING

Held at the Palais Wilson, Geneva,
on Wednesday, 20 September 2000, at 10 a.m.

Chairperson: Ms. OUEDRAOGO

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CONSIDERATION OF REPORTS OF STATES PARTIES (continued)

Initial report of Burundi

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GE.00-44509 (E)

The meeting was called to order at 10 a.m.

CONSIDERATION OF REPORTS OF STATES PARTIES (agenda item 4) (continued)

Initial report of Burundi

(CRC/C/3/Add.58; HRI/CORE/1/Add.16/Rev.1; CRC/C/Q/BUR/1; written replies of the Burundian Government to the questions in the list of issues (document without a symbol distributed in the meeting room in French only))

1. At the invitation of the Chairperson, Mr. Nindorera, Ms. Rwamaheke, Ms. Nduwimana and Mr. Juma (Burundi) took places at the Committee table.

2. Mr. NINDORERA (Burundi) said that the general state of Burundi and the situation of human rights and children's rights had been the subject of considerable discussion due to the crisis experienced in the country since 1993. Indeed, children had been the main victims of that crisis and to date no satisfactory solution had been found.

3. Any analysis of the country's situation should be conducted in the light of the context of armed civil war and fratricide, which he hoped would end once a peace agreement was signed. At that very moment, a meeting involving the Government of Burundi and the armed groups, facilitated by Nelson Mandela, was being held in Nairobi with a view to establishing a ceasefire. The Committee might be aware that a first peace and reconciliation agreement had been signed in Arusha in August 2000, with the participation of most of the parties except for the armed groups, making it more of a political agreement than an agreement that could bring about a lasting peace. The current meeting, therefore, marked an important, though difficult, stage in the process.

4. The problems in Burundi were not limited to abductions, displacements, regroupments and exile. The economic and social fabric had also deteriorated, leading to the violation of human and children's rights. The situation had been further worsened by the embargo imposed upon the country by its neighbours in 1996, which, although lifted three years later, had seriously affected the most disadvantaged groups, especially children. It was his belief that the justification for embargoes should be questioned, as they often resulted in gross human rights violations.

5. Measures had been taken at the international level against Burundi which had had a negative impact on the country's development and, by extension, children's rights. Suspended bilateral and other forms of cooperation were slow in getting off the ground again, with the condition being the signing and implementation of a peace agreement. To compound the problem, parts of the country had suffered the terrible consequences of drought. Prior to 1993, the country had had promising health and education figures and the Government had believed that real progress could be achieved by 2000, only to be set back by the ensuing crisis. However, there were signs that the country had begun to recover in the fields of health, education and the economy, although it still fell far short of the norms and expectations of the international community. Efforts had been made to improve the situation of Burundian children through the passing and implementation of legal texts, but the country's resources were still lacking.

6. His delegation intended to be frank about the country's problems and the Government's proposed solutions. He assured the Committee of the Government's determination to protect children's rights.

7. The CHAIRPERSON invited the members of the Committee to ask questions relating to general measures of implementation and the definition of the child.

8. Ms. MOKHUANE thanked Mr. Nindorera for his introductory remarks, which gave a clearer picture of the political and social difficulties experienced by the country which affected the implementation of the Convention. She commended the efforts made by the State party to submit and present its report in spite of the odds, in full respect of the reporting guidelines laid down by the Committee, and the ratification by Burundi of ILO Convention No. 138 concerning Minimum Age for Admission to Employment (1973).

9. She would like to know what steps the Government had taken to harmonize the principles of the Convention with customary law, especially where inheritance rights were concerned. Had the draft laws on the rights of delinquent children and children in difficult circumstances, mentioned in the State party's written replies, already been presented to the Council of Ministers for consideration by the National Assembly? The State party had indicated in its written reply to question 2 that coordination on children's issues was effected through the Council of Ministers; she asked which ministry was concerned and how coordination was achieved. She also wondered whether the same actors were involved in monitoring, coordination and implementation. What plan of action had the Government envisaged to revise the country's priorities in view of its changed circumstances?

10. Mr. FULCI said he was pleased to learn of the meeting in Nairobi; it was high time to bring an end to the suffering of the people of Burundi. How could one discuss issues under the Convention when the very lives of Burundian children were being threatened on a daily basis? He wondered whether Burundi had signed the Optional Protocols to the Convention on the Rights of the Child on the involvement of children in armed conflict and on the sale of children, child prostitution and child pornography, in view of their relevance to the country's situation.

11. He would welcome details on initiatives taken to narrow the gap between legislation on children's rights and its enforcement. What were the budget allocations for health and education, and what percentages of the national budget and of international funding were dedicated to children?

12. Mr. DOEK expressed admiration for people who continued fighting for the rights of children in a situation that would leave others feeling helpless and angry; he hoped that the peace agreement would be signed by all the parties. He asked whether the Government had a strategy for identifying the most urgent needs in Burundi.

13. He would like to know whether the Provincial Committees for the Protection and Promotion of Children's Rights, had already been established and what their activities were. Bearing in mind that children were the most vulnerable and easily exploited group, did the Government envisage signing the Hague Convention on Protection of Children and Cooperation in respect of Intercountry Adoption and the Hague Convention on the Civil Aspects of

International Child Abduction? He wondered whether the Government had considered establishing an ombudsman to monitor observance of children's rights, investigate complaints lodged by parents and children and report back to the Government.

14. Ms. KARP said the situation in Burundi was all the more regrettable considering that, at the beginning of the 1990s, the Government had begun to make progress in the area of monitoring children's rights. She asked whether there was a Government body or focal point responsible for coordinating the distribution of international financial assistance to ensure that it was child-focused and to avoid duplication. Now that a possible ceasefire was in sight, signalling a new start for the country, how did the Government plan to incorporate the main principles of the Convention into the new infrastructure, through training and the involvement of children as authentic partners in society? Burundian children had become wise through their experiences, and the Government would do well to listen to them in order to rebuild institutions and develop programmes and infrastructure. It would be interesting to know whether the Government had made the psychological treatment of Burundian children who had suffered the trauma of civil war a priority and whether international assistance had been made available for such rehabilitation.

15. Ms. TIGERSTEDT-TÄHTELÄ said she appreciated the State party's core document (HRI/CORE/1/Add.16/Rev.1) and the light it threw on Burundi's history, which was important for understanding the current situation. She would like to know whether there was a clear division between the parliament, the executive and the judiciary and how local communities functioned. What was the level of participation by the population in Government? Peace and stability thrived on democratic systems where there was political pluralism, separation of powers, the rule of law, freedom of the press, respect for human rights and the rights of minorities and, of course, respect for the rights of children. She would welcome reactions from the delegation in that regard.

16. Ms. RILANTONO said that the Government of Burundi must consider how to proceed after the conclusion of a peace agreement and the declaration of a ceasefire. Although much had been achieved before the outbreak of war, the country must now start over from the beginning. Most important, in her view, was to identify the causes of the civil strife - whether ethnic, cultural, or economic - and to take action to prevent such a conflict from erupting again in the future. In her view, the country's educational policy should focus on teaching children from a young age to live together, socialize together, and to appreciate each other. It would be useful to consider what actions the National Childhood and Youth Council might take to change policies affecting children.

17. Ms. SARDENBERG said that reports of States parties to the Committee usually showed a situation in progress: in the case of Burundi, no progress had occurred. The report and the written replies demonstrated, however, that the Burundian Government had the political will and interest to protect children's rights. She would like to know, first, what were its immediate plans for national reconciliation. Second, she would like information on the envisaged role of the sage in improving the situation of children. Third, she would welcome a summary of the child-related legislative texts under consideration. Finally, it would be useful to know whether the Provincial Committees had already been established, and what were the terms of their mandate.

18. The CHAIRPERSON said that a reading of the report revealed some inconsistencies in age restrictions. Paragraph 44 indicated that a man could marry at age 21 and a women at age 18. The same paragraph, however, stated that Burundi had ratified the African Charter on the Rights and Welfare of the Child, which established the minimum age for marriage at 18 years for both boys and girls. Laws regulating the age of marriage should be amended accordingly. Furthermore, although education was compulsory only for children between the ages of 7 and 12, the minimum age for employment was 16, exposing children between the ages of 12 and 16 to the risk of entering the job market too early.

19. Mr. RABAH said that even in a situation of civil conflict, there were ways and means of protecting children. It would be useful to know whether any measures had been taken to coordinate the efforts of non-governmental organizations (NGOs), United Nations agencies working in Burundi, especially the United Nations Children's Fund (UNICEF) and the United Nations Development Fund (UNDP), and the National Childhood and Youth Council, in particular since it was chaired by the Prime Minister.

20. He urged the Government to enact measures to ensure that all Burundian children were registered at birth, since unregistered children were not citizens and could not benefit from governmental protections and services, such as hospitals and schools.

21. Mr. NINDORERA (Burundi) said that the Government had undertaken a children's rights awareness campaign throughout the national territory, even in some conflict areas. It had held seminars and established the Provincial Committees, engaging the participation of members of the civil society in the protection and promotion of children's rights. That was a significant undertaking, which had required the outlay of considerable governmental resources.

22. Since the formulation of the initial report, a number of legislative texts had been drafted, some of which had been adopted. It had been urgently necessary to enact new legislation on intercountry adoption, in order to halt the wartime traffic in orphaned children. Many Burundian children had been offered for adoption abroad on the pretext that they had no parents, and abuses had occurred. Those who arranged such transactions had reaped profits, and in fact, some parents had sold their children. The new law regulated adoption, particularly intercountry adoption, with a view to helping Burundian orphans find new parents within the country, especially among relatives.

23. An inter-ministerial committee, of which he was a member, was currently meeting to analyse new draft legislation, which would then be reviewed by the Council of Ministers and submitted to Parliament for consideration during the session that commenced in October 2000. The texts in question, the amended Code of Personal and Family Affairs and the two draft laws on delinquent children and children in difficult circumstances, took into consideration the principle of the best interests of children.

24. The Government had discussed the establishment of a single legal document encompassing all legislative provisions concerning children, and had determined - in view of the available resources and the experience of other countries - that it must begin by focusing its attention on amending the relevant provisions to bring them into conformity with the Convention.

25. The sage, a leader in traditional Burundian society, would essentially play the role of ombudsman in defending the rights of children.

26. A committee had been working on preparing a new code on inheritance and marriage, which should be ready for adoption in 2001. It was particularly difficult to amend Burundian inheritance laws, since under traditional practice, a father divided his land among his sons, and if daughters too were included, each parcel of land became even smaller. Burundian society was profoundly reluctant to grant true equality to men and women, especially in the ownership of land.

27. Land was also at the heart of the refugee question, since all returning refugees wished to recover their lands. Restoring land to persons who had left during the previous decade might be a simple matter, but returning the land of those who had been absent for almost 30 years was more difficult. In the meantime, some of that land had been used for public buildings or taken over by other families. A process of compensation might be established, but that would not resolve the understandable attachment to ancestral lands. Those matters must be tackled within the context of a comprehensive land reform, which could not be undertaken during the current political crisis.

28. The Government had ratified the African Charter on the Rights and Welfare of Children in 2000, and had enacted a number of other child-related provisions. Far more important, however, was to cultivate attitudinal change and to create a favourable environment for reform, which naturally required the restoration of peace. Any agreement must be understood in the same way by all the parties, and all citizens of Burundi must be willing to accept each other and to work together. In various parts of the country, members of Burundian society, with the help of the traditional sages, had already begun to work toward achieving peace and reconciliation, despite the absence of a peace agreement.

29. An inter-ministerial committee, under the direction of the Ministry of Human Rights, was coordinating Burundi's efforts on behalf of children, in order to ensure that the scarce resources available were efficiently used. Unfortunately, a country at war must devote a large portion of its budget toward protecting and securing the population, and all other sectors naturally suffered. The Government had been rightly accused of doing too little on behalf of children, particularly those living in the street and in the camps. There was an ongoing debate on the subject of budgetary priorities, and in fact, the budget would be the principal topic of discussion during the upcoming parliamentary session.

30. Moreover, as the parties to the Burundian conflict lived together rather than in separate territories, it was difficult to identify the enemy. A peace agreement must be achieved; a very small minority continued to believe that a military solution was feasible. Schools were continually rebuilt, only to be soon again destroyed. In his view, a peace agreement must be reached before such efforts could prove fruitful.

31. The fact that the Burundi Government had not yet signed the Optional Protocols to the Convention on the Rights of the Child on the involvement of children in armed conflicts and on the sale of children, child prostitution and child pornography did not mean that it did not intend to ratify those instruments. That again was a matter of priority, and the Government was obliged

to focus its attention on achieving peace. In his view, the ratification of such instruments should wait, as any text adopted during wartime would probably prove ineffectual. The ratification of the Ottawa Convention on the Prohibition of the Use, Stockpiling, Production and Transfer of Anti-personnel Mines and on Their Destruction would be discussed during the parliamentary session to be held in October.

32. The gap between the adoption and application of legislation was mainly attributable to the conflict. Before any law could be applied, society must be psychologically prepared for it. Since 1993, legislative provisions discriminating against women had largely been eliminated from the law, but that had not resulted in full equality for women. Practical measures such as awareness campaigns were required to bring about social change. The realization of children's rights would be somewhat less problematic because Burundi's culture generally placed a great deal of importance on children. Traditionally, there had never been a problem of abandonment or street children, as any abandoned child would very quickly be cared for by relatives or by others. Just the same, it was important to ensure that the overall environment would be conducive to overcoming obstacles to the implementation of the Convention.

33. The proportion of the budget earmarked for education had fallen from 18.3 per cent in 1998 to 15.4 per cent in 2000, and the proportion for public health had declined from 3.3 per cent to 2.7 per cent. In 2000, education received 11.7 per cent of the capital budget, and public health received 2.9 per cent. Education was still the second largest budget item after national defence, and it was the largest item on the extraordinary budget, followed by agriculture and animal husbandry. It was difficult in the current context of uncertainty to draw up a budget for 2001, as any forecasts would necessarily depend on whether the country would be in a conflict or post-conflict situation.

34. Security in Burundi varied greatly from one region to another. In the regions most affected by the conflict, the primary concern was survival. Only after some stability was re-established would displaced people and other conflict victims seek to send their children to school. Even then, in regions such as the "red zones", while some families might be willing to send their children to school, very few teachers were prepared to risk their lives by working there. The security situation near Tanzania, where cross-border attacks by rebels were common, was so bad that it was extremely difficult to plan any kind of long-term action for the population. International NGOs and international agencies were instrumental in providing food, shelter and services in such regions, and were often able to take action much faster than the Government.

35. The Provincial Committees had in some cases exerted a positive influence, for example by setting up bodies at the commune level which effectively intervened when human rights violations were noted. For example, in Gitega Province, such bodies had either secured the release from prison of children, or had improved their living conditions, in particular by identifying persons likely to assist them. Owing to the conflict, children were sometimes forgotten or lost, and the Provincial Committees played an important role in restoring family ties in such circumstances. One of their main functions was to ensure the involvement of all members of society, through religious groups and civic associations, in defending the rights of the child throughout the country. The Government was endeavouring to support such activities by associations outside the capital, where they were most needed.

36. Burundi had signed the Hague Convention on Protection of Children and Cooperation in Respect of Intercountry Adoption in April 2000. Concerning the Hague Convention on International Child Abduction, he would transmit the Committee's concerns to his Government.

37. A procedure existed for the coordination of NGO activities, whereby a foreign NGO operating in Burundi registered first with the Ministry of External Relations and Cooperation and subsequently with the technical ministry responsible for its field of activity, such as the Ministry of Health. All such NGOs must also register with the Ministry of the Interior, which had a coordination office. The aim of such registration was to avoid problems such as overlapping of services, by assigning assistance where it was most needed. The system generally worked well, although there had been a few problems owing to competition among some NGOs.

38. A number of studies had been devoted to ways of assisting traumatized children. The treatment of such children required a close presence, and unfortunately the country lacked the means to provide psychological treatment to all those who required it, for example through the public school system. Some NGOs did, however, provide limited assistance in that field, for instance in displaced persons camps.

39. The Constitution which had been adopted by referendum in 1992 had been suspended in 1996 and replaced by a transitional decree-law. In 1998 a constitutional transition act had come into force as the result of an agreement between the two main political groups, and a new Constitution was expected to result from the current peace process. According to some, the new Constitution should consist of the 1992 Constitution, amended by a text drawn up under the peace agreement. In the Government's view, however, a single text would be preferable.

40. The constitutional transition act called for a separation of powers between the executive, the legislature and the judiciary. Because of the very serious need for stability in the current political context, it did not allow the executive to dissolve parliament or parliament to dismiss or impeach the executive. While in principle the judiciary was independent, the executive branch could replace even Supreme Court judges. One of the questions discussed during the current negotiations therefore had been means of strengthening the independence of the judiciary, for example by ensuring that persons in technical posts would enjoy a degree of tenure of office. According to some proposals, a senate, or second chamber of parliament, would have responsibility for naming judges.

41. A major challenge in formulating such new institutions to ensure that they would be representative of a society whose population was about 85 per cent Hutu, 14 per cent Tutsi and 1 per cent Batwa. A democratic solution would no doubt include a system for power sharing among the different ethnic groups. A debate had begun on the proposed electoral system, with the Tutsi minority generally supporting the idea of indirect suffrage so as to ensure some balance in the new institutions. The question of how best to set up a pluralist democracy was at the heart of the current peace negotiations.

42. Some Burundians considered that the establishment of power-sharing institutions along ethnic lines would run the risk of deepening divisions. In the Government's opinion, the country's multiethnic situation, which had led to so much strife, must be recognized and addressed by political institutions in order to avoid the vicious cycle of violence.

43. The National Childhood and Youth Council was no longer operational. One of the Government's objectives was to establish a representative body to carry out the functions previously assigned to the Council. Traditional institutions were of great importance in Burundi. During the civil war, many "sages", or village elders, had at the risk of their own safety protected people whose lives were in danger, but others had lacked such extraordinary courage and still others had behaved less than honourably.

44. The Council of Ministers and the National Assembly would between October and December consider the draft codes and laws which were currently being drawn up and analysed. The new Code of Personal and Family Affairs, which should soon be adopted, would set the legal age for marriage and the age of majority at 18 for both men and women. Although there was no legal provision explicitly forbidding the military recruitment of minors, only people over 18 years of age were allowed to enrol in the military. Because of conflict-related problems in the registration of children, it was sometimes impossible to determine a child's name, let alone his or her exact age. That had repercussions not only for military recruitment but also for the reliable collection of statistics.

45. Ms. RWAMAHEKE (Burundi) said that, with support from local and international NGOs, psychosocial assistance was being provided for children in difficult situations. Despite economic constraints, the family reunification strategy was progressing; traumatized children were also helped, the emphasis being on placement in a family environment. Also, one of the amendments to the Code of Personal and Family Affairs would take the form of a new, innovative article establishing the age of marriage at 18 for men and women, replacing the current article 88 which set the age at 21 and 18 respectively.

46. The CHAIRPERSON invited the Committee members to ask their second round of questions, as well as questions concerning general principles and civil rights and freedoms.

47. Ms. MOKHUANE, referring to general measures of implementation, asked how the country's child-development policy could be reconciled with the population regroupment policy, which adversely affected children. She would like to know whether the various ministries engaged in developing children's rights played an advocacy role and exactly how the Ministry of Human Rights was involved. She inquired into the strategy for raising awareness of children's rights in rural areas, where illiteracy was rife. Finally, apart from donor participation in efforts to implement the provisions of article 4 of the Convention, how did the authorities intend to sustain the war-damaged economy and what resource allocation plans did it entertain?

48. Turning to general principles, she noted a discrepancy between the claim in the initial report that there was no ethnic discrimination against children and the delegation's admission that there was not only discrimination based on ethnic origin and country of birth, but another form of discrimination based on favouritism, whereby resources were siphoned from certain regions and allocated to others. What was the current situation in an ever-changing society with regard to discrimination against children? She also wished to know how the best interests of the child were promoted in a situation of civil war, especially with regard to the opposition parties. Also, the fact that custody was invariably awarded to the father in divorce proceedings indicated that children's material, but not emotional, interests were considered.

49. Since, as stressed in the initial report, the rights to life and development had been curtailed by the civil war, and since laws alone did not suffice, how was Burundi creating an enabling environment for the promotion of children's rights?

50. Ms. KARP said she agreed with previous speakers that the Government's regroupment policy was inconsistent with the development of children's rights. What was Burundi's attitude to democracy, in which, traditionally, majority rule went hand in hand with guarantees of the rights of the minority. She stressed the need for children to serve as partners of the authorities and share their particular expertise in the formulation of policies and programmes. What action was the Government taking to empower children and adolescents, as many African countries had done, and involve them from the outset in programmes such as action to combat AIDS and the provision of adequate health-care and hospital services?

51. One problem was the authorities' insistence that discrimination was not based solely on ethnic origin or race. In that connection, she asked for more information concerning the Twa people. She wondered whether the affirmative action undertaken in the form of special budgetary allocations to bring the Twa to the same level of development as other population groups did not constitute a form of discrimination against the latter, and what longer-term strategy the Government was considering for addressing their situation. She noted that, although the idea that childhood ended at 18 was generally accepted, the statistics regrettably covered children only up to the age of 15. Lastly, were there plans to set up a Ministry of Child Affairs, as distinct from the ministry dealing with women's issues?

52. Ms. RILANTONO asked how the authorities planned to govern a society as divided as the one described. She endorsed Ms. Karp's recommendation of intensive child participation, and suggested that joint activities by Hutu and Tutsi children could be instrumental in changing divisive adult attitudes. If, as the delegation had claimed, the traditional communities were already working on peaceful cohabitation without awaiting the expected peace agreement, had the Government given thought to empowering those communities to develop a new way of life and new attitudes that would contribute to a holistic approach to the implementation of children's rights?

53. She applauded the allocation of 15 per cent of the total budget to education, which would serve to boost children's participation in development. She asked whether there was a national programme existed for addressing the extremely high poverty rate; a 5-year or 10-year programme stood a good chance of receiving international assistance. Why had the regroupment policy, which was exacerbating divisions in the country, been undertaken?

54. Mr. DOEK asked whether specific NGOs focused on the problems of refugees, as implied in the written replies. If so, was it at the Government's insistence? Were any NGOs addressing the apparently prevailing view that girls needed less education than boys? What positive action had been undertaken to improve girls' enjoyment of their right to primary and secondary education?

55. Regarding children's expression of their views, he asked whether there had been any follow-up to the recommendations formulated by children on the occasion of Burundi's latest Annual Children's Day concerning basic services such as education, health care and clean water.

While mention had been made in the written replies of the planned establishment of a judicial police force to investigate exploitation of children, no reference had been made to exploitation in areas affected by armed conflict.

56. Lastly, while applauding the Government's action to penalize corporal punishment of children by the police, he stressed that, without an independent complaint mechanism, the threat of penalties would be of no avail.

57. Mr. FULCI asked for information about the situation between the Hutu and the Tutsi in the neighbouring country of Rwanda. He emphasized the importance of birth registration, without which a child virtually did not exist. Was there in Burundi, with its droves of refugees and countless regroupment camps, a central office that could certify a child's existence? He wondered what practical action could be taken to facilitate birth registration.

58. Mr. RABAH said that discrimination in Burundi was a serious problem. From information he had received, there was hostility not only between the Hutu and the Tutsi, but towards other ethnic groups, especially the Batwa, who were socially discriminated against and whose children claimed to be denied access to justice before the courts, health-care services and land. How was the Government reacting to ethnic discrimination which was the main reason for the civil war?

59. Ms. SARDENBERG asked whether the delegation could provide information on the role women were playing in bringing the conflict and divisions in the country to an end. Also, what likelihood was there that the commission to investigate the human rights situation, to which Burundi had referred before the Commission on Human Rights, would be set up? What had been the outcome of the Government campaign, mentioned in the written replies, to eradicate ethnic discrimination in education? Lastly, were any national or international agencies working with children who had become heads of families because of the war?

60. Ms. TIGERSTEDT-TÄHTELÄ pointed out that the negative trend in budget allocation for implementation of children's rights ran counter to the spirit of article 4 of the Convention, a problem which, together with the steep rise in the poverty rate, the authorities should do their utmost to address. She also asked what motive lay behind the Government's policy of forced regroupment, which violated human rights law, and how that policy was implemented.

61. The CHAIRPERSON asked what measures the Government was taking to bring into line with the Convention the discrimination against girls in inheritance legislation, especially with regard to property; against boys, who were less attractive to foster families; and against women, with regard to custody and the nationality conferred on children. Endorsing Mr. Rabah's comments on birth registration, she asked what assistance was given to children without identification documents. Were they issued with new ones? How were they registered? It was not enough for the Government to waive the penalty for late registration, as mentioned in the written replies; it must take a series of measures to facilitate registration.

The meeting rose at 1 p.m.

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Twenty-fifth session

SUMMARY RECORD OF THE 646th MEETING

Held at the Palais Wilson, Geneva,
on Wednesday, 20 September 2000, at 3 p.m.

Chairperson: Ms. OUEDRAOGO

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Initial report of Burundi (continued)

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GE.00-44554 (E)

The meeting was called to order at 3 p.m.

CONSIDERATION OF REPORTS OF STATES PARTIES (agenda item 4) (continued)

Initial report of Burundi

(CRC/C/3/Add.58; list of issues (CRC/C/Q/BUR/1); written replies of the Burundi Government to the questions in the list of issues (document without a symbol distributed in the meeting room in French only)) (continued)

1. At the invitation of the Chairperson, the members of the delegation of Burundi resumed their places at the Committee table.

2. Mr. NINDORERA (Burundi) said that there were plans to amend the Code of Personal and Family Affairs so as to bring the definition of the child into line with that of the Convention. It was further intended to appoint delegates for the protection of children at the level of the collines de recensement (the smallest administrative unit), to establish juvenile courts, to create communal social services and to reinforce the role already played by existing structures, such as family councils and councils of notables, which would receive clearer instructions on the promotion and protection of children's rights.

3. The problems of discrimination to which reference had been made were not the result of a position of principle on the part of the Government, which considered that all disaster victims should receive equal treatment, but of difficulties of a practical nature in the distribution of aid. The non-governmental and international organizations in the field, each of which had a specific mandate, generally concentrated on a given population (refugees rather than internally displaced persons, the inhabitants of a regroupment camp, etc.), and that led to tensions which were still further exacerbated by the coexistence of different ethnic groups within the camps. The Government was endeavouring to limit instances of injustice by coordinating the action of the organizations in question. The uneven distribution of health and education infrastructures among the various regions, however, was the result of the mismanagement of public affairs in the past.

4. Where the distribution of the text of the Convention was concerned, the provincial committees already involved were supported by some communal committees, which would become more numerous in the future. The text was available in French and in Kirundi, the national language, and it was planned to raise the awareness of the illiterate population by means of suitable educational tools based essentially on pictures. Broadcasts on the subject in local languages, some of them specifically targeting children, were in progress. It was a particularly efficient solution since nearly all inhabitants, even the poorest, had a radio.

5. Children were represented in school committees and family councils which they joined once they seemed capable of discernment. Children had been able to make themselves heard on several occasions, especially in the context of a project launched in collaboration with UNICEF, during an encounter with Parliament in 1999 and during a public debate bringing together

children and government representatives in December each year on the occasion of International Children's Day of Broadcasting. The scouts' organization had also been invited to a consultation seminar which had met to draft a bill. Taking account of the opinions gathered, however, still posed problems.

6. The Government had adopted a number of measures in support of the integration of the Batwa population, for which three seats would be reserved in the new chamber of Parliament and which already benefited from free health care and education. If there was to be genuine integration, however, Batwa attitudes needed to move forward.

7. The regroupment camps, or "protection sites" as the State called them, had been set up to separate the innocent civilian population from the rebels and by that means to limit the consequences for civilians of the struggle between the rebels and the army. The Government had endeavoured to solve the problems stemming from regroupment and in particular to improve the very difficult living conditions of the populations concerned. It had requested help from the NGOs. The dismantling of the sites was in progress and had even been completed in rural Bujumbura, but some of the occupants were afraid for their safety and refused to return to the collines; the situation would only be settled when the peace agreement had been signed and implemented and the population was engaged in genuine reconciliation.

8. Where the financing of education was concerned, communities and parents were currently asked to contribute approximately one dollar a year to schooling costs. Those who could not pay that modest sum, however, were exempted. Poverty had indeed become a serious problem in Burundi since the embargo and the suppression of bilateral assistance. Unless cooperation was renewed, the country would be incapable of redressing the economic situation, and the consequences on the development of ethnic tensions could not fail to be alarming.

9. As to how a society so divided could be governed, negotiations had been in progress for two years but the participants had been unable to reach a consensus. It was to be hoped that in time people would be judged on their achievements, both by their ethnic community and by the other communities and regardless of ethnic origin.

10. The elimination of capital punishment was not a central concern since the current most urgent problem was to combat impunity. Incidentally, the death penalty was not applicable to children and it was also planned to reduce to 5 years the heaviest penalty a minor could incur, which was 10 years' imprisonment.

11. The Government commission on human rights was already operational and working in close collaboration with non-governmental organizations. The latter were sometimes harsh in their criticism of the Government with regard to the protection of human rights, and accused representatives of the public service of human rights violations, but it was encouraging that such discussion could take place.

12. In assigning the custody of a child, the basic criterion was the child's best interests. In cases that were difficult to resolve, custody was generally given to the father when the child was over 7 years of age, unless it was clearly more in the child's interest to remain with his mother. Since a growing number of women were magistrates, it could be seen that judicial decisions increasingly focused on women.

13. From the start women had claimed the right to participate in the peace process, but there was no escaping the fact that some political actors had blocked their way. Some of their ideas, however, had been taken into account and women had become aware of the role that they could play in society and were currently determined to continue in that direction.

14. The CHAIRPERSON invited the members of the Committee to ask questions about the family environment and alternative care, health and welfare, education, leisure and cultural activities and special measures of protection.

15. Mr. FULCI asked whether, as some sources asserted, the international adoption of children gave rise to abuses, whether it was true that for reasons of inheritance and dowry girls were preferred to boys and what guarantees the Burundi Government required from foreign families applying to adopt a Burundi child. He asked whether the Government had taken steps to help children traumatized by the atrocities they had seen and to protect the rights of children who had been repatriated. It would also be useful to known whether Burundi had signed the Optional Protocols to the Convention and whether it intended to ratify the amendment to the Convention to increase the number of members of the Committee.

16. Ms. MOKHUANE asked whether the Government had taken steps to implement the Convention on the Reduction of Statelessness and the Convention relating to the Status of Stateless Persons, to which Burundi was a party.

17. The written replies revealed that 15 per cent of host families had a minor as head of the household; details of the programmes initiated to help them would therefore be desirable. It would also be useful to know whether private institutions involved with children were monitored on a regular basis and what steps were taken to replace family councils, to help grandparents obliged to take responsibility for their grandchildren, to combat malnutrition and maternal mortality and, generally speaking, to improve the state of health of the population and its access to care and to confront teenage drug addiction. She also asked what the Government was doing to help disabled children and to increase the enrolment ratio and improve the quality of education.

18. Ms. KARP asked why statistics on children concerned only the under-15s. With regard to the regroupment camps, it would be interesting to know what type of representation their inhabitants had and how they were associated with their management, the role of NGOs and whether the Government was envisaging a realignment of resources so as to reduce the inequalities between the various camps.

19. The written replies mentioned that corporal punishment in schools was forbidden but that Burundi tradition allowed it to a limited degree. The Burundi delegation could perhaps detail the measures, legislative or otherwise, that the Government was planning to take to ensure progress

in attitudes and put an end to such practices and whether it intended to establish a means of collecting complaints from children who had suffered from ill-treatment and of punishing the perpetrators.

20. She would like to know how the Government was combating AIDS, whether it received technical assistance from UNAIDS and what difficulties it was encountering in reunifying families, particularly in the context of the project it was implementing in collaboration with UNICEF. The delegation could also describe the plans envisaged for reducing the duration of pre-trial detention, for using deprivation of liberty only as a last resort and, generally speaking, for reforming the administration of juvenile justice, with details concerning the fate of children imprisoned pending trial although they had not incurred a prison sentence.

21. Mr. DOEK said that he would like details on assistance to host families, particularly with reference to the conditions for obtaining a health insurance card. It would also be interesting to know whether the State had any control over private institutions which looked after children, particularly establishments for disabled children, what the consequences of privatizing hospitals would be, especially for the poorest, and whether schooling was completely free of charge and included school supplies. He would also like details of measures to facilitate the demobilization, protection and rehabilitation of child soldiers enrolled by rebel groups.

22. The written replies had indicated that in 1998 some 88.5 per cent of imprisoned minors were untried prisoners; it was a very alarming figure and there was a need to know what the Government intended to do to remedy the situation and what was the fate of children born in prison.

23. Mr. RABAH stressed that the current system of juvenile justice was in need of reform, as being incompatible with the relevant provisions of the Convention. It would be useful to know whether the Government envisaged cooperation with NGOs in the immediate future to improve the situation and whether children in conflict with the law benefited from legal aid. The delegation could also describe the relations between juvenile delinquents and the police and prison authorities. Additional information on the situation of street children and the measures taken to solve the problem would also be welcome. With regard to recreation, it would be interesting to know whether the activities mentioned in the report were free and accessible to all children. Lastly, he asked whether in Burundi there was a problem of discrimination between the different categories of the population and the different regions.

24. Ms. RILANTONO asked whether any movement to strengthen civil society and introduce a genuine democracy to serve the best interests of children existed in Burundi and whether obstacles stood in the way of the collaboration between the Government on the one hand and the NGOs and United Nations agencies on the other for the implementation of the Convention. It would also be of interest to know what proportion of schools had been closed because of the conflict and whether there were classes for children in the regroupment camps. The delegation could also explain what steps the Government was taking to combat AIDS and the infection of children and whether it was organizing information and education campaigns for teenagers.

25. The CHAIRPERSON said that she had read in the written replies that children were installed on land that had been bought for them and asked who had bought the land and was looking after the children. The replies also said that some foster families considered the children solely as a source of income; she would like to know what the Government was doing to remedy the situation and whether it was possible to take away from those families the children who had been entrusted to them. She asked whether the delegation could specify what the decentralization of the provincial committees for the promotion and protection of children's rights would involve. It would also be of interest to know what attitude the traditional authorities were taking to the Convention.

The meeting was suspended at 4.25 p.m. and resumed at 4.30 p.m.

26. Mr. NINDORERA (Burundi) said he could not say whether the Burundi delegation to the Millennium Summit had signed the two Optional Protocols to the Convention on that occasion, but he would transmit the Committee's recommendations concerning their signature and the ratification of the amendment on the increase in the number of members of the Committee to the Government.

27. In the case of the inhabitants of the regroupment camps, committees representing the different populations had been established to collect their grievances and take into account the problems arising in the perspective of the operations to dismantle the sites. The NGOs for their part could favour one region over another, but it was up to the States, in collaboration with them, to find the most efficient machinery for establishing some degree of equity in the distribution of resources.

28. Burundi had initiated a process of reform of the juvenile justice system but there was a shortage of both human and financial resources; in the long term, it could be hoped that the return to peace would enable the State to mobilize more resources with the support of the international community. The number of children in detention reflected a genuinely disturbing situation, and a government commission and provincial committees for the promotion and protection of children's rights had been established and made responsible for that priority issue. They were responsible for studying the file of each child in detention with a view to taking concrete action without delay. Release should be immediate for minor offences and for children who had already been sentenced, provisional or conditional release could be envisaged. As for children imprisoned with adults, different sectors had already been marked out in two prisons, but again more means were needed. It should be remembered that Burundi was the theatre of a civil war in which children played an active role. Once a cease-fire had been decreed, they would benefit from an amnesty or a judicial pardon. Where the children of imprisoned mothers were concerned, Terre des Hommes was engaged in a project in Burundi the aim of which was to search out family members who might take them in.

29. The demobilization of child soldiers was among the questions discussed in the context of the Arusha peace negotiations. Current reflection turned on how to organize their demobilization in the interests of the children. The problem of resources arose there too, but it could be imagined that the international community would make a financial contribution in view of the importance it attached to the problem.

30. Civil society had not been spared by the crisis the country was experiencing. Associations did not carry much weight and were not sufficiently structured and therefore did not have great capacity for action or for mobilization. Moreover, all the social actors had Hutu or Tutsi sensibilities which took precedence over Burundi sentiments, and the same split was found in the political parties.

31. Ms. RWAMAHEKE (Burundi) pointed out that in the case of many children their distress had a variety of causes and that it was difficult to find a comprehensive solution to their problems. A coordination meeting of NGOs working in that area had concluded that special intervention was needed. A centre for training and supervision which would take children in provisionally was being built. Population displacements had separated some children from their parents and traditional institutions, including the official State orphanage and foster families, were taking them in. In addition, 29 reception centres subsidized by the State were exempted from customs duties on goods intended for the children. The Government was collaborating closely with those institutions and also supervising them.

32. Where family reunification was concerned, results had already been obtained, with the help of the Save the Children Fund in particular; 784 children had been put back in touch with their close or extended families. Faced with its own inadequate means, the Government encouraged private initiatives in that area and made land available to the institutions. Burundi had initiated a capital enterprise, consisting in the compilation of a register of all the children and their exact identification; once the peace agreements were signed, that information would facilitate the reunification of parents and children.

33. Some people believed that foster families regarded the children as an additional source of income, but the question should be considered from another standpoint. In Burundi, whether in a biological family or in a foster family, there was indeed a tendency to prefer girls, since they performed more domestic tasks, even if they did not bring in income as such. The foster families took on a commitment by signing an official document before the local authorities who ensured the follow-up.

34. The Ministry for the Advancement of Women and Social Action had undertaken to provide legal assistance for children, in particular by training staff for the reception structures.

35. Disabled children for their part were taken into institutions on the same basis as other children in difficulty. The religious congregations did a great deal for them, while the Government had set up two centres: the National Centre for the Supply and Repair of Appliances and the National Centre for Social and Professional Rehabilitation. Once fitted with an appliance, children, particularly those too old to go to school, could learn a trade and be reintegrated. The percentage of disabled children had greatly increased as a result of the crisis, and Burundi was planning a decentralization campaign to cover the entire country. Another project was to register all disabled children so as to be able to redefine the action it would conduct with the assistance of UNICEF.

36. The Burundi communities had given the Convention on the Rights of the Child a much warmer reception that the Convention on the Elimination of All Forms of Discrimination against Women. Burundi was envisaging the simultaneous promotion of the two Conventions, explaining to the population that children's rights could not be respected if mothers' rights were ignored.

37. Mr. JUMA (Burundi) explained that the statistics for 15-18 year olds were indeed deficient since that age group was not affected by compulsory schooling and it was therefore difficult to obtain information about them. Additional information would be supplied.

38. The Criminal Code had made corporal punishment an offence, similar to striking and wounding.

39. In education, in view of the severe lack of teachers as a result of the crisis, Burundi had been obliged to recruit persons who did not have the required level of qualification; however, in collaboration with UNICEF, it had introduced upgrading programmes to improve the quality of education. Support from the international community would be very much appreciated in that regard and could result in teachers of quality being available. Poor families received free education.

40. The drop-out rate was relatively low in the first four years of primary school but increased after the fifth year, when French became the official language of education. Pupils who dropped out were directed towards apprenticeship centres where they could acquire the necessary skills to become integrated. In secondary school the drop-out rate was relatively low because pupils could repeat a class. Most of them therefore remained in school until they were 17 or 18. The Government was making efforts to increase numbers of parallel courses for pupils who were not capable of keeping up with traditional education.

41. A lower rate of enrolment was typical of the frontier regions of Burundi since the children were attracted by the possibilities of paid employment, such as small-scale commerce and gold mining, offered on the other side of the border. In order to remedy the situation, Burundi, in collaboration with UNICEF, was engaging in consciousness-raising activities specifically targeting those regions.

42. Ms. NDUWIMANA stressed that various public health programmes being implemented on a large scale particularly benefited children, including programmes to combat diarrhoeal diseases, acute respiratory infections and malaria, while the extended vaccination programme taking place throughout Burundi had achieved a 95 per cent coverage of poliomyelitis in 2000. The Ministry of Public Health had also introduced a risk-free maternity programme, centred on the training of traditional midwives. Another programme was aimed at making the population aware of the importance of drinking water and latrines in combating dysentery and cholera. A national programme to prevent and combat AIDS, stressing awareness among young people and teenagers, was in progress with the support of UNAIDS and UNDP.

43. In order to facilitate access to medicines, the Ministry had decided to set up a centre for the purchase of essential medicines, mainly generic, which could then be bought for a modest sum in the communal pharmacies. Where access to health care was concerned, there were two

types of card for keeping down the cost of treatment: the sickness insurance card, for which there was a charge and was therefore intended for average-income families, and the poverty card, which was issued, following an investigation, to the children of the most impoverished families (most often repatriated or displaced children), and could be used in private independent hospitals as well as in public hospitals.

44. The disparities in terms of health infrastructure between Bujumbura and the other regions could be explained by the fact that the capital had been spared by the fighting. In the interior, the health centres had been largely destroyed and lack of security had led to the flight of the medical personnel. The Ministry, with the assistance of numerous partners, had undertaken to restore or rebuild the centres. There were currently two health centres per commune and two hospitals per province.

45. Mental health had become another priority. A form of collective hysteria had appeared in schools and displaced persons' camps among children marked by the consequences of the war. A new NGO was currently taking responsibility for the traumatized children and helping to rehabilitate them. It was aided by a specialized psychiatrist.

46. Ms. MOKHUANE asked whether the policy of education for integration had been implemented and whether children living in rural areas and displaced children were still able, despite the war, to take part in recreational and cultural activities. Regarding the psycho-social integration of children, she was under the impression that only one psychiatrist was practising in Burundi and she expressed concern at the lack of facilities. She would like to have details on the number of inhabitants per doctor. She asked what real opportunities of access there were to medicines and medical care, given the very low standard of living of the population. Lastly, she asked whether protected jobs existed for disabled persons.

47. Ms. KARP asked whether all corporal punishment of children by their parents, even of the lightest kind, was forbidden by law.

48. Mr. DOEK, noting that young people were poorly informed about matters relating to reproductive health although they were sexually active at an early age, said that he would like to know to what extent illiteracy was taken into account and what efforts were made to use information other than in written form.

49. Mr. NINDORERA (Burundi) explained that it had been necessary to push back to 2010 the deadline for achieving the objectives of inclusive education in view of the situation in the country, but stressed the importance the Government was placing on education for everyone. Where recreational activities were concerned, it was always possible for children to play, even with very modest resources, but it was difficult for them to have access to cultural activities proper. The total prohibition of corporal punishment still gave rise to reservations; some parents found it normal and even desirable to inflict light physical punishment on their children. As for the combat against AIDS, much progress needed to be made, especially with regard to improving the information methods used and to involving young people more. Despite consciousness-raising activities, many of them refused to use condoms. A certain conservatism related to tradition and religion meant that parents were often too late in tackling questions about young people's sex lives.

50. Ms. RWAMAHEKE said that all the agencies working in the field, even where their priority concern was dealing with the most urgent needs (clothes, food and housing), were aware of the need for psycho-social assistance for children. Several NGOs were active in that area, but needs were tremendous and the task was very onerous. Steps had been taken to assign land to child heads of households and to enable them to engage in income-generating activities, as had also been done in the case of children placed in foster homes, to prevent them from being exploited. As for cultural activities in rural regions, UNESCO's House of Culture of Peace in Burundi had provided an opportunity for children from all over the country to go and perform in the capital. Mobilization against AIDS was very far-reaching. Many radio and television programmes were devoted to it. Talks had been given on the subject on the occasion of Pan-African Women's Day. The Ministry for the Advancement of Women and Social Action was also taking action in the form of the family development centres.

51. Ms. NDUWIMANA explained that several persons were currently training as doctors or assistants in psychiatry and would soon be able to work in collaboration with the NGO specializing in help for war-traumatized children. For the past two years the Ministry of Health had been carrying out a countrywide redeployment of medical personnel. Currently, there was one doctor for every 21,208 inhabitants. Generic medicines were produced in Burundi itself, thus making it possible to keep down prices and make such medicines accessible to the largest possible number of people, particularly as the sickness insurance card and the public official's card could be used to cover part of their cost. The Government had further allocated a budget to the central purchasing office for medicines. Preventive care, such as vaccinations, was free of charge. A national reproductive health programme existed and provided an environment for numerous activities involving young people. Sex education had just been made a part of primary education and continued at secondary level.

52. Ms. MOKHUANE praised the quality of the dialogue with the members of the Burundi delegation and read out the Committee's draft concluding observations in English.

The meeting rose at 6.10 p.m.

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Held at the Palais Wilson, Geneva,
on Thursday, 21 September 2000, at 10 a.m.

Chairperson: Ms. OUEDRAOGO

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Initial reports of the United Kingdom of Great Britain and Northern Ireland on the Isle of Man and the Overseas Dependent Territories

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GE.00-44623 (E)

The meeting was called to order at 10 a.m.

CONSIDERATION OF REPORTS OF STATES PARTIES (agenda item 4) (continued)

Initial reports of the United Kingdom of Great Britain and Northern Ireland on the Isle of Man and the Overseas Dependent Territories [CRC/C/41/Add.7 and 9; CRC/C/11/Add.19 and Corr.1; HRI/CORE/I/Add.62; CRC/C/Q/UK/-IM/1; written replies of the Government of the United Kingdom of Great Britain and Northern Ireland to the questions in the list of issues (document without a symbol distributed in the meeting room in English only)]

1. At the invitation of the Chairperson, the delegation of Great Britain and Northern Ireland took places at the Committee table.

2. The CHAIRPERSON said that the initial reports of the United Kingdom under consideration covered the following Overseas Dependent Territories and Crown Dependencies: the Isle of Man, Anguilla, the British Virgin Islands, the Cayman Islands, Montserrat, Pitcairn Island, St. Helena and its dependencies, the Turks and Caicos Islands and the Falkland Islands.

3. Mr. KISSACK (United Kingdom of Great Britain and Northern Ireland) said that the Isle of Man, once an ancient kingdom in its own right, was now a dependency of the British Crown; although the United Kingdom had certain responsibilities in its regard, including defence, representation and good governance, the island had its own parliament, judiciary and administration, and in essence was internally autonomous and self-governing. As a common law jurisdiction, the Isle of Man looked to the United Kingdom for advice regarding legislation, policy, specialized staff and other matters. A rural island, it had a population of about 75,000, a little less than half of which lived in Douglas, the largest town, the remainder in small, scattered settlements. Though historically poor, in recent years the island had turned from traditional industries to financial services and manufacturing, and its per capita national income was now roughly equal to that of the United Kingdom. The standard of living was typical of western Europe; public services were the same as, or better than, those provided in the United Kingdom.

4. With prosperity, the population had been revitalized, resulting in an increase in the number of young people and children, and in turn prompting new investments in schools and sports facilities. Unemployment was below 1 per cent among persons of working age. The Isle of Man was a small community, and its Government could claim to be in touch with its people on a daily basis. It took its responsibility under international instruments seriously and was committed to providing the best services possible to all its people, including children. To suggest that no problems existed would be misleading: reported instances of child abuse; the misuse or abuse by children of drugs, alcohol and solvents; the incidence of unwanted teen pregnancies; and crimes committed by children and young people had increased. Certain areas of legislation needed updating. The problems of the Isle of Man were not atypical, and the Government was doing its utmost to resolve them, using all the professional expertise available to it.

5. The island's history of poverty, had, however, left a legacy of under-investment which the Government was attempting to remedy; in addition, the island had been slow in developing effective social services, though great strides had been made in the previous 10 years.

6. Tynwald, the parliament of the Isle of Man, had recently passed the Criminal Justice Bill, which would definitively remove corporal punishment from the Manx Statute Book and establish a register of sex offenders. No corporal punishment had been administered on the island, however, for almost 30 years. Three further relevant bills would be considered by Tynwald in coming months, the Children and Young Persons Bill, the Adoption Bill, and the Education Bill, which would put into statute law the ban of the Department of Education on the use of corporal punishment.

7. The Isle of Man's Child Care Strategy would expire in 2001, and was due for review. That review, which would result in a five-year development programme for the provision of services to children and their families, would undoubtedly gain from the examination of the report currently under way.

8. Ms. KARP inquired why the United Kingdom had not yet submitted reports regarding Jersey, Guernsey, Alderney, Sark, Gibraltar, Henderson, Ducie, the Oeno Islands, South Georgia and the South Sandwich Islands, and whether she was correct in her understanding that the Convention had not been extended to the British Antarctic Territory, the British Indian Ocean Territory, and the Sovereign Base Areas of Cyprus. Finally, she would like to know why the Convention had not been extended to all the Overseas Dependent Territories and Crown Dependencies.

9. She had been concerned to find that the white paper entitled "Britain and the Overseas Territories: A Modern Partnership" referred to the European Convention on Human Rights and the International Covenant on Civil and Political Rights but made no mention of the Convention on the Rights of the Child, and wondered the reason for its absence.

10. It would be useful to know what proportion of the development assistance support accorded by the Government of the United Kingdom to those territories still receiving such assistance, Anguilla, the British Virgin Islands, Montserrat, the Turks and Caicos Islands, Pitcairn Island and St. Helena, was earmarked for the implementation of children's rights.

11. She would also like to know whether questions regarding the withdrawal of reservations entered by the United Kingdom on behalf of the Overseas Dependent Territories and the Crown Dependencies should be addressed to that Government or to those of the Territories and Dependencies themselves.

12. Finally, she asked whether the United Kingdom was providing advice and guidance to the Isle of Man and the Overseas Dependent Territories and Crown Dependencies regarding the use of corporal punishment in schools.

13. Mr. RABAH inquired whether the reports had been prepared by the Isle of Man and the Overseas Dependent Territories and Crown Dependencies themselves, whether and to what extent the Convention was disseminated to island populations, including children, and why those territories had not established the post of ombudsman.

14. Ms. SARDENBERG said she would like to know what role the United Kingdom played in the implementation of the Convention on the Isle of Man and in the Overseas Dependent Territories and Crown Territories, and whether it differed from territory to territory.

15. Mr. FULCI asked why the United Kingdom, in withdrawing its reservations to articles 32 and 37 (d) of the Convention, had not extended that withdrawal to the Isle of Man. He urged it to do so.

16. Ms. TIGERSTEDT-TÄHTELÄ said that she had seen no mention in the reports or in the white paper regarding fiscal policies, and inquired whether the Overseas Dependent Territories and Crown Dependencies were empowered to levy taxes in order to finance child-related policies.

17. Mr. FIFOOT (United Kingdom of Great Britain and Northern Ireland) said that his Government did not apply international instruments to the Crown Dependencies or the Overseas Dependent Territories without consulting their Governments. His Government had indeed consulted those Governments. Gibraltar had announced that it was prepared to accept the Convention, but must amend its legislation in order to do so. Jersey and Guernsey, whose Governments were similar to that of the Isle of Man, were assessing the compatibility of their legislation with the provisions of the Convention, with the aim of accepting it in due course. The Sandwich Islands had a population of 4, all residing in a small hamlet, and teams of 16 scientists which remained for two-year stints: there were no children. The British Antarctic Territory, South Georgia, and other territories mentioned had virtually no population. The Sovereign Base Areas of Cyprus were under military command, which extended to other parts of the island.

18. The white paper had not been envisaged as an exhaustive description of the policies of the United Kingdom with regard to the various international human rights conventions. Its principal concern was civil and political rights, because the United Kingdom had recently moved towards incorporating the European Convention on Human Rights into its domestic legislation. The Government was anticipating with some apprehension its entry into force in autumn 2000, largely because the text was drafted so differently from traditional United Kingdom laws.

19. The role played by the United Kingdom in facilitating the implementation of the Convention consisted of explaining the instrument's scope and purpose to the Governments of the Territories concerned and providing model laws for possible adoption. It was then for the authorities of the Territories, which were internally self-governing, to take measures. The United Kingdom, as the State party to the Convention, was ultimately responsible for ensuring its implementation. However, the constitutional organization of the State was quite complex, and much political power was decentralized. In the case of the Overseas Territories, most of which had previously been colonies, there had been a devolution process, whereas the Isle of Man, Jersey and Guernsey had technically never been part of the United Kingdom, although they were associated with it.

20. The United Kingdom had brought to the attention of the Government of the Isle of Man the need to bring its legislation into line with the European Convention on Human Rights, but it had not itself taken any legislative measures toward that end, and it generally sought to avoid adopting such imperial legislation. As a result, the various Territories often adopted different provisions to comply with the same obligations. As far as the United Kingdom was concerned, that was acceptable as long as those provisions were consistent with the international obligations in question.

21. The report on the Overseas Dependent Territories and Crown Dependencies did indeed consist of a number of separate reports, each of which had been prepared and produced by the respective Territory's authorities. Because of the differences between them and the way their Governments worked, there was no practical alternative to that system. However, the United Kingdom had made an effort to consolidate the replies to the list of issues. Overseas Territories and Crown Dependencies did indeed have the right to impose taxes.

22. Mr. KISSACK (United Kingdom), replying to questions relating specifically to the Isle of Man, said that it was a well-established policy that there should be no corporal punishment in schools. A legislative prohibition of corporal punishment was due to be adopted within a year. The report of the Isle of Man had been prepared by the central office of Government, using submissions from the various departments whose work was related to the rights of the child. The central office had no contact with non-governmental organizations (NGOs), but the contributing departments might have consulted them before drawing up their contributions. A discussion held 10 years earlier had concluded that an ombudsman's office was unnecessary because of the community's small size and the ease of accessibility of the 33 members of the Manx Parliament. However, the Council of Ministers of the Isle of Man was currently considering the question again.

23. The difference between the status of the Isle of Man and the Overseas Territories was that the former was not part of the United Kingdom, but was part of the British Isles and had had a much longer association with the monarchy, dating back to 1405. Officially, it was linked with the crown through the Privy Council, a committee which advised the monarch, and not with the United Kingdom. In practice, it was the Home Office and not the Foreign and Commonwealth Office that dealt with the affairs of the Crown Dependencies of Jersey, Guernsey and the Isle of Man. While such geographic, historic and constitutional differences might appear to be minor, the inhabitants of the Crown Dependencies considered them important. The crown had residual responsibility for defence and external representation, and ultimately was responsible for ensuring the good governance of the Isle of Man.

24. The question of responsibility for the implementation of the Convention was to a certain extent hypothetical; if it were found that the Convention was not being implemented, the Manx authorities would themselves take action to correct the situation without any intervention being necessary on the part of the United Kingdom.

25. The Isle of Man would have no objection to withdrawing its reservation to article 37 (d) of the Convention. However, the reservation to article 32, which related to the employment of children, would be more difficult to withdraw. While there was a law protecting children

under 16 in employment, people between the ages of 16 and 18 were defined as "young persons" in Manx law, and no specific labour protection was afforded them. As things stood at the moment, the Isle of Man was therefore not in a position to withdraw the reservation.

26. Ms. KARP asked for clarification of the status of the Convention on the islands of Henderson, Oeno, Ducie, Alderney and Sark, and asked why the Convention had not been extended to Gibraltar.

27. The report submitted on the Isle of Man was useful and generally followed the Committee's guidelines, but it appeared to concentrate excessively on legal aspects and failed to convey an understanding of the everyday life of the island's children. There was little information on the problems of implementation encountered.

28. The Children and Young Persons Bill and the Child Care Strategy as described in the replies to the list of issues did not adopt a rights-based approach, but instead concentrated on welfare and services. While the bill mentioned the best interests of the child, it did not refer to a number of the other important principles enumerated in the Convention, such as the right for a child to have his or her views heard, the right to life, survival and development, and the right to protection against discrimination. An important aspect of the Convention was that it called for the child to be treated as a subject benefiting from such rights, and not simply as a recipient of services, protection and welfare. It would be of interest to know whether children had been involved in the drafting of the bill and the new strategy.

29. The written replies to the list of issues included a reference to a Human Rights Bill. Would that enactment be similar to the Human Rights Act of the United Kingdom, which specifically referred to international conventions, including the Convention on the Rights of the Child?

30. The fact that children between 16 and 18 were called "young persons" did not seem to justify the maintenance of the reservation to article 32, as they should still be protected from economic exploitation. By maintaining that reservation, the Government was sending the wrong message to the international community. Did the reservations of the United Kingdom to articles 7 (c) and 22 apply also to the Isle of Man?

31. It was commendable that the Government had adopted new legislation abolishing judicial corporal punishment, but why had it taken over 20 years to bring the law into line with the decision of the European Court on that question? Lastly, the statistics presented with the report generally covered children only up to the age of 15. Were there any statistics concerning children through the age of 18, or any relating to the protection of children and their enjoyment of rights?

32. Ms. RILANTONO inquired about the promotion of the Convention, especially in respect of activities by the authorities and by civil society and religious groups. She said that, while there was no ombudsman, the Police Complaints Commission might provide a good basis for the examination of complaints of violations of the rights of the child. Lastly, she would appreciate some information on the budget resources allotted to health services.

33. Ms. SARDENBERG commended the Government for its commitment to ensuring the implementation of the Convention. The situation of the Crown Dependencies and Overseas Territories was indeed quite complex. The United Kingdom Government could, however, put its experience as a State party to good use in order to assist the Territories, each of which had a very specific situation, in implementing the Convention.

34. For the Isle of Man, which had an ageing and declining population, it would be particularly important to adopt the new perception of the child that was found in the Convention. The measures described in the report and replies to the list of issues generally appeared to be desultory. A comprehensive and dynamic approach was needed.

35. The forthcoming withdrawal of the reservation to article 37 (d) would be a welcome step, but the Government should also seriously consider withdrawing the reservation to article 32. Because of the universal nature of the Convention, that reservation sent the wrong signal about the acceptability of economic exploitation of children, which was certainly not the Government's intention.

36. She asked whether NGOs or children had been involved in the consultation process leading up to the drafting of the Children and Young Persons Bill. Were the authorities' dissemination efforts confined to providing copies of the Convention upon request, or did they do more to raise public awareness of the instrument? Did the new code of practice on access to Government information have any impact on the dissemination of the Convention?

37. She expressed scepticism about the policy according to which the Government of the United Kingdom extended international conventions to the Isle of Man only once it had established that the Isle of Man could comply with their requirements. Such instruments should be implemented with a view to pursuing their objectives. She endorsed Ms. Karp's statement that there seemed to be little commitment to adopting the spirit of the Convention.

38. Mr. FULCI expressed satisfaction at the plans to withdraw the reservation to article 7 (d). Noting that the Government of the United Kingdom had requested the withdrawal years before, he asked what had prompted the recent change of position by the Manx authorities, and when the withdrawal would take effect. He fully endorsed the positions of Ms. Karp and Ms. Sardenberg concerning the maintenance of the reservation to article 32. That reservation was anachronistic, as it appeared to signal an indulgent attitude towards the economic exploitation of children. If the United Kingdom, which was so close geographically, culturally and historically to the Isle of Man, could withdraw such a reservation, what factors could justify maintaining it in the Isle of Man?

39. Ms. MOKHUANE noted that if a juvenile wished to file a complaint of violation of his or her rights, a relevant adult must be present when the statement was taken. That was in conflict with the principle of the Convention which recognized the evolving capacities of the child. The authorities had reported that members of Parliament were well versed in the Convention, yet they had also stated that there was a need to train them. He would appreciate the delegation's comments on the level of awareness among policy makers.

40. Ms. TIGERSTEDT-TÄHTELÄ, stressed the importance of adequate budgetary allocations for implementation of the rights of the child, and asked the delegation to spell out the situation prevailing in that regard.

41. Mr. KISSACK (United Kingdom), in reply to a question by Ms. Karp, said that life in the Isle of Man was similar to life in the United Kingdom and other western European countries, where children were influenced by television and the print press. The island adopted a philosophical approach and, like all common-law jurisdictions, operated on the assumption that certain rights were universal; only restrictions to the freedoms involved, and not the rights themselves, were spelled out. Legislation, virtually identical to that passed in the United Kingdom, for the incorporation of the provisions of the European Convention on Human Rights into Manx law was due to be enacted by the end of the year.

42. The reservation to article 37 (c) was the same as the United Kingdom's. Offenders aged 16-17 were normally separated from adult convicts in the island's prison, although constraints based partly on policy and partly on physical conditions sometimes prevented such separation. In the case of the reservation to article 22, Manx immigration policy was dictated by that of the United Kingdom, whose reservation had to be observed.

43. On the basis of public opinion, the Parliament had decided to discontinue judicial corporal punishment in stages, rather than remove it from the Statute Book at once. While it had so far been officially removed only from the lower courts, it was clearly understood that, in keeping with European Court of Human Rights judgements, the Deemsters High Court judges would never impose it.

44. Statistics did exist concerning children usually stopped at age 15, the natural boundary between the first and second of three roughly divided population groups: school-age children, working population and retirees. Publicity of the initial report and the Convention had not hitherto been assigned high priority, but the press announcement of the delegation's appearance before the Committee would doubtless raise huge public interest. Publication of the Committee's concluding observations and the Manx authorities' comments in the press and on the island's Web site would also enhance the profile of the Convention. Thought would be given to extending the remit of the Police Complaints Commission to serve as ombudsman.

45. While child health expenditure was not separately identified, the Isle of Man, like the United Kingdom, had a generous health budget, whose benefits were enjoyed by children. A comprehensive programme of school screening and immunization was also in place. In reply to a question by Ms. Sardenberg, he explained that the previous ageing of the population had been halted by an influx of new residents and, more particularly, by the Isle of Man's economic regeneration which encouraged qualified young people to remain on the island. Most new residents in the Isle of Man originated in the United Kingdom.

46. In reply to Mr. Fulci, he said the reservation to article 37 (d) had never applied to the Isle of Man, whereas that to article 32 did apply, reflecting current Manx law, which differed from that of the United Kingdom. The new education bill shortly to be enacted would empower the Department of Education to introduce new child labour regimes. He was confident that 18 would be accepted as the minimum age of employment. The Isle of Man was embarking on

human rights training for State and local authorities, the judiciary, the police and similar professions, in anticipation of the incorporation of the European Convention on Human Rights into Manx law.

47. Mr. CORTLETT (United Kingdom) explained that the Isle of Man was a flourishing Crown Dependency because of its financial services industry. It was well aware of its human rights obligations and had appeared before the Human Rights Committee to present its report. People would hardly invest in a territory with a poor human rights or child-protection record. With the imminent enactment of the Children and Young Persons Bill, children would be accorded even higher priority than that stipulated in article 3 of the Convention. He trusted that the courts would continue to assign importance to children's best interests. The purpose of the specialist juvenile courts was to ensure that children were not overwhelmed by the judicial process. The human rights bill currently before Parliament significantly reflected United Kingdom legislation, except that the Manx courts would not be empowered to declare laws incompatible with the Convention, a task left to Tynwald.

48. The Isle of Man was not authorized to rule on reservations to articles of the Convention; that was the task of the United Kingdom as the contracting State. The possibility of modifying or withdrawing the reservation to article 32 would be taken up with the Home Office, but measures were already in place to protect children from economic exploitation. Referring to Ms. Sardenberg's suggestion that the United Kingdom Government should serve as a catalyst for the exchange of information on children's rights within its various territories, he stressed that the excellent relationship between the Home Office and the Isle of Man could not but work in favour of children. Regarding a comment by Ms. Mokhuane, he said that since the legislation on police powers enabled a child to request the presence of an adult when being questioned by persons in authority, the provision was intended to protect rather than intimidate.

49. The CHAIRPERSON invited the Committee members to put questions concerning the remaining sections of the list of issues.

50. Ms. KARP noted that the Isle of Man was strongly influenced by legislation and attitudes in the United Kingdom, which had in fact abandoned the conservative approach whereby rights were not enumerated. The Isle of Man should do likewise, and follow the basic approach inherent in the forthcoming Human Rights Act, including its provision calling for human rights and child rights education. Regrettably, the written replies said nothing about placing human rights education in the school curriculum, except as a minor component of civic education. The public could hardly be expected to invoke its rights if it was unaware of their existence. The Convention needed to be given greater visibility among children and parents. She advised the Manx authorities to be guided by the Committee's concluding observations on improvements needed in implementation of children's rights in the United Kingdom, rather than blindly following the latter's legislation.

51. The reservation to article 37 (c) of the Convention would be valid if it referred to the principle of separation of adult and juvenile offenders in the best interests of the child. If, however, the reasons for non-separation were unrelated to that principle, the reservation made no sense and should be withdrawn. Also, with the increasing mobility of persons and emerging new economic and other partnerships, it was important to convince the United Kingdom Government

of the need to withdraw its reservation to article 22. While the authorities' division of the population into three approximate categories was understandable, statistics and information on all minors were required for any meaningful assessment of the scope of child-related problems, especially in the light of plans to develop adolescent-health policies.

52. Children's right to development was insufficiently provided for in Manx legislation. Despite the delegation's insistence that the best interests of the child were of paramount importance, there was no real indication in the written replies of how those interests were protected. In any event, they would be meaningless if they did not go hand in hand with - rather than take precedence over - other of the Convention's provisions. On another matter, children might wish to lodge official complaints outside the hearing of a parent or other adult. The written replies stated that no ombudsman was needed since teachers in secondary schools willingly heard complaints. Did the same apply in primary schools? If not, was it because primary pupils were deemed insufficiently sincere or responsible? The entire issue of child participation needed to be rethought and given more emphasis in everyday life as well as in the legislation.

53. On the subject of corporal punishment, she urged the Manx authorities to refrain from focusing exclusively on United Kingdom legislation. Corporal punishment should be reappraised with a view to educating parents and teachers on alternative methods of punishment which respected a child's physical integrity.

54. Mr. DOEK said he disagreed with Ms. Karp's remarks on the reservation to article 37 (c); he did not see how the holding of young and adult offenders together could possibly be in a child's best interest. Given what he deemed to be the Isle of Man's structural problem in defining the child, he sought clarification of the neglect of children aged 17 in the juvenile justice and care systems, as reflected in paragraphs 11 (b) and 49 of the initial report. Also, what justification was there for differences in treatment of homosexual and heterosexual contacts? He asked how much weight was given to development and maturity in taking children's views into account. He also sought clarification of the guardianship ad litem mentioned in paragraph 28. Were such guardians spokespersons for children, or did they play an independent role in determining children's best interests? He also wished to know which conditions were involved in the conditional sentencing imposed in 42 per cent of convictions, and why community service was an option for only 1 per cent.

55. He said that the six-week time frame for birth registration was too long and asked for additional information on the involuntary placement of children in psychiatric clinics under the 2000 Mental Health Act. What did the programmes for preventing child abuse and neglect actually entail? And what real possibilities existed for children to participate in decisions taken in schools? Procedures for complaints against the police depended on two crucial elements: total independence of the complaints body from the agency complained against and genuine accessibility of the procedure.

56. Mr. RABAH asked how and why responsibility for children in armed conflicts lay with the United Kingdom Government, as stated in paragraph 101 of the initial report. He noted that

the 1996 figures for juvenile offenders (initial report, appendix 3) were too high. Lastly, he requested further information on juvenile detention centres. Did legal aid, reform homes and special centres for girls exist?

57. Ms. KARP, referring to the age of criminal responsibility, said she would welcome clarification of the proposed abolition, under the Children and Young Persons Bill, of the doli incapax provision for children over 10 but under 14.

58. Mr. KISSACK (United Kingdom) said the only place where corporal punishment was practised was the home, as the law authorized parents to exercise "reasonable chastisement", and any attempts to abolish corporal punishment would be controversial because of strong public sentiment in favour of it. In reply to Mr. Doek's comment about the reservation to article 37 (c), he said serious attempts were made to separate juveniles from adults in prisons, but that was not always possible in a small institution.

59. The disparity between the ages of sexual consent for heterosexual and homosexual relationships was again directly linked to public acceptability. In reply to a question on school democracy he said that students participated in decision-making, through their representatives on school governing bodies. Regarding the independence of the police complaints procedure, the current Police Complaints Commissioner was a retired judge and highly respected citizen who enjoyed the total confidence of the island. Replying to Mr. Rabah, he said that refugee issues were dealt with by the United Kingdom Government because refugees entered the Isle of Man via the United Kingdom.

60. Mr. CAUCK (United Kingdom) explained that the Social Services Division had been in existence for only 10 years. The Education Department, which had previously been responsible for child-care services, had been unable to meet the needs of young people adequately. However, child-care services had improved over the last 10 years and it was realized that a more holistic approach was needed; that was to be the thrust of the next phase of development of strategic services. Moreover, the capacity now existed to afford children more active participation in developing services extended to them.

61. Imprisonment was usually a last resort, among several options, reserved for serious offences. It was planned to establish a five-place secure unit on the Island, for children only, by 2002; the unit would not be run as a detention centre but would be fully adapted to children's needs. With regard to the question on juvenile justice and mental health, it was true that there were inconsistencies in the definition of a child. Under the Children and Young Persons Act, a child was considered to be a person under 18 whereas, in terms of legal status, a child became an adult at 17. That was one aspect which called for reflection and reform, as a juvenile court would offer greater protection for children.

62. With regard to children's hearings, guardians were appointed by the courts to represent the best interests of the child. Concerning involuntary placement of young people in psychiatric clinics, he said that children under 18 were treated in a setting outside of a psychiatric hospital wherever possible. Treatment facilities consisted of residential units and care was provided by

paediatric nurses and specially-trained mental health officers. A consultant in child psychiatry, along with other staff, had recently been appointed to cater specifically to children with psychiatric needs.

63. Conditional discharge usually lasted for a year and was used as an alternative to imprisonment. A very small number of such sentences were imposed, the condition being that no other offence should be committed. Children were also placed under supervision order with community service sentencing for lighter offences. They were usually cautioned before imprisonment was considered, but recidivism could result in recourse to the courts. He said that legal aid was available to minors and confirmed that the age of criminal responsibility was 10 years.

64. The doli incapax provision had placed the onus on the prosecutor to prove that the child had understood the seriousness of the offence. Under the new legislation, however, the burden was on the defence lawyer to prove the child's inability to understand the nature of the offence. He agreed that less protection was effectively being offered to the child, but that provision was considered necessary in the light of certain serious offences that had been committed by minors in the United Kingdom.

65. Mr. CORTLETT (United Kingdom), replying to Ms. Karp, said that the Isle of Man had studied other legislative systems, notably those of New Zealand and Northern Ireland. It did not follow United Kingdom legislation slavishly, but used it as a model in most cases. Although the Human Rights Act was not yet in force, High Court judges applied Convention law and he assured the Committee that cases of complaints against the police would be tried by a tribunal that took human rights into account.

66. The CHAIRPERSON invited Ms. Karp to make preliminary concluding observations.

67. Ms. KARP encouraged the delegation to pursue the new approach of increasing children's participation in policies and programmes. She hoped that the Human Rights Act would change the public authorities' attitudes. It was time for a holistic approach to the implementation of the Convention, and a rights-based approach in which children were viewed as human beings and partners with a valid contribution to make.

68. Regarding the continuation of certain entrenched practices, such as corporal punishment, she said that legislators needed to take the lead in changing public opinion through public education programmes. She hoped that the Committee's concluding observations would he discussed, published and disseminated in the Isle of Man.

69. Ms. SARDENBERG stressed the importance of dissemination as set forth in article 42 of the Convention. She suggested that a press conference might be held to involve civil society in the search for greater democracy.

70. Mr. KISSACK (United Kingdom) said his delegation looked forward to reading the Committee's concluding observations and would study them carefully.

The meeting was suspended at 12.45 p.m. and resumed at 12.50 p.m.

71. Mr. FIFOOT (United Kingdom) said that the Overseas Territories were a disparate collection of territories of various sizes, ranging from 3.2 km^2, and populations of at least 44 people, in the case of Pitcairn Island. The most populous countries, apart from Bermuda, were located in the Caribbean. There were also vast differences in per capita wealth. In the Caribbean Territories which had offshore industries there was a high per capita GDP (Gross Domestic Product), but that figure was not a reflection of real incomes. The disparity in wealth obviously affected Governments' revenues and their spending on services. His delegation had provided information on budgetary provisions for various services, but it was difficult to say what amounts were spent on children's issues as they were included in a number of different budgets.

72. When considering the Territories, it was also necessary to bear in mind the extent to which they were self-governing in matters covered by the Convention. Bermuda and the Caribbean Territories, for example, were fully self-governed with their own legislature, which had tax levying powers, and ministerial Government, constituting the executive. The Governor's powers were limited to defence, internal security, external affairs and some powers of appointment. In cases where international responsibilities had domestic implications, like that of the Convention, the United Kingdom Government, through the Governor, monitored their local implementation. In other Territories, such as the Falkland Islands and St. Helena, responsibilities were not so clear-cut.

73. The above-mentioned factors, together with a Territory's culture, affected the way in which matters arising from the Convention were addressed. A small population did not mean that fewer services needed to be provided because of smaller demand, as small populations and small revenues limited the number of people available to provide them. In the Territories the emphasis was on delivering services rather than recording them; although statistics might be kept in individual departments, they were not necessarily coordinated. Furthermore, the burden of reporting was greater in small bureaucracies then in large ones.

74. Provision of services for children in the Territories had long preceded the Convention, and the legislative provision made in earlier times, with various amendments, still remained a vehicle for the provision of services in a number of Territories. In addition to provisions in the criminal code on sexual offences against children and young persons, legislation on children and juveniles provided protection against cruelty and neglect and governed the placing of juveniles in alternative care. The reports referred to a number of acts for the protection of children and juveniles, including a common provision which made it an offence for a person over the age of 17 to ill-treat a child in his or her care. Common legislation on adoption stipulates that adoptions should be carried out in children's best interests and with due consideration for their views.

75. The Convention's provisions on nationality, statelessness, birth registration and identity, parental responsibility and the right not to be separated from one's parents were also covered under existing legislation and practice.

76. The Territories had responded positively to their obligation to implement the Convention. The Government of Bermuda had recently carried out a thorough review of law and practice as they related to the Convention. In the British Virgin Islands, a Human Rights Reporting

Committee was reviewing existing legislation to determine its compliance with the Convention. In its written replies to the Committee's list of issues, the delegation had listed a number of Strategic Country Plans which included proposals for children's issues.

77. The Territories continued to provide and expand traditional services, with health and education being high budgetary priorities. In addition to specific problems such as the effects of offshore work and migration on families and the language problems introduced by immigration, the territories faced universal problems such as teenage pregnancy, drugs and alcohol. In an effort to solve them the Territories had expanded their health and welfare services; his delegation would give further details at the next meeting.

The meeting rose at 1.10 p.m.

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Twenty-fifth session

SUMMARY RECORD OF THE 648th MEETING

Held at the Palais Wilson, Geneva,
on Thursday, 21 September 2000, at 3 p.m.

Chairperson: Ms. OUEDRAOGO

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GE.00-44581 (E)

The meeting was called to order at 3 p.m.

CONSIDERATION OF REPORTS OF STATES PARTIES (agenda item 4) (continued)

Initial report on the Overseas Dependent Territories and Crown Dependencies of the United Kingdom of Great Britain and Northern Ireland (CRC/C/41/Add.7 and Add.9; CRC/Q/UK-OT/1 (list of issues); written replies of the United Kingdom of Great Britain and Northern Ireland - Overseas Territories to the questions on the list of issues (document without a symbol distributed in the meeting room in English only)) (continued)

1. At the invitation of the Chairperson, the members of the delegation of the United Kingdom of Great Britain and Northern Ireland resumed their places at the Committee table.

2. Ms. KARP expressed regret that no mention had been made in the reports on the various Territories of the specific problems encountered on the ground. On the subject of reservations, she noted that the Isle of Man had been urged to reverse its decision, and encouraged the other Territories to do likewise, on the understanding that there might be different reasons for each Territory's reservations. Moreover, observing that the Cayman Islands and the Falkland Islands had enacted laws aimed at the implementation of the human rights conventions, a prerequisite for respect of children's rights, she asked whether the other Territories planned to follow suit. What form did implementation of the Convention take in a Territory such as Pitcairn Island, with a mere 45 inhabitants? Lastly, was access to higher education guaranteed on the island?

3. Mr. FIFOOT (United Kingdom) pointed out that Pitcairn Island had a subsistence economy and that the notion of services did not correspond to the actual situation on the island. Education was paid for by Pitcairn Island, but administered, with the help of New Zealand, and assigned an important place to practical subjects (such as carpentry) to its eight pupils aged 5-15. Pupils wishing to receive higher education needed to go to New Zealand and were subsidized.

4. Ms. KARP, turning to Montserrat, asked whether specific measures had been adopted for the psychological rehabilitation of children in the wake of the disaster, and what plans the authorities had for rebuilding the island. Since only one third of the island was once more habitable, what did the authorities still need to do for the situation to return entirely to normal?

5. Mr. TAYLOR (United Kingdom) said that the rebuilding work had been considerable and that progress had been made on children's rights. Indeed, attention had been paid to that question ever since the peak of the crisis. Children aged 5-11 attended two primary schools, one of them denominational. Infants attended a public nursery school from age 1 to 2¾, at which point they moved on to a day-care centre, also public, until age 5. On 1 September 2000 the island's secondary school, relocated in temporary premises, had returned to its own building, which had been completely renovated. The State paid for uniforms and textbooks for disadvantaged families and helped the poorest to subsidize the cost of their children's nutrition needs. The launching of the reform of the Department of Community Services had served to garner the views of children, who were also represented on the National Education Advisory Committee.

6. All children enjoyed access to health services and were immunized against the major diseases. A sustainable development plan was shortly to be approved. The population had been consulted for its preparation and was prepared to do its utmost, in collaboration with the United Kingdom Government and the regional institutions, to rebuild the country. All families with children had already been rehoused and a soft-mortgage scheme set up to help people rebuild their homes. The Government also planned to take steps to restore home ownership to the population.

7. In terms of economic activity, emphasis was placed on new technologies. For instance, computer studies had been introduced in primary education and would soon be extended to secondary schools. It was also planned to make use of the volcanoes for tourism. In an effort to alleviate any trauma experienced by the population as a whole, and children in particular, the Government had appointed a psychologist, whom it was hoped would soon be joined by a United Nations volunteer psychologist.

8. Ms. SARDENBERG asked whether human rights education was being incorporated into the school curriculum.

9. Mr. TAYLOR (United Kingdom) said there were plans to include that subject in the curriculum. For the time being, however, human rights were touched upon in other subjects.

10. Ms. RILANTONO expressed satisfaction that the Montserrat administration had created a National Committee for the Promotion of the Rights of the Child, and said she would like to see the other Territories and Crown Dependencies emulate it.

11. Mr. TAYLOR (United Kingdom) said the disaster that had struck the island had doubtless influenced the creation of that committee, which comprised representatives of the authorities and civil society.

12. Mr. FULCI asked what penalty was incurred by parents who failed to register children within 21 days of their birth, as required by law.

13. Mr. TAYLOR (United Kingdom) said he did not know the answer to the last question, but was under the impression that the hospital where a child was delivered transmitted the information concerning the newborn baby to the Registry.

14. Ms. MOKHUANE inquired how the rights of disabled children were protected; what were the reasons for the high truancy rate, and whether the legal minimum age of sexual consent was the same for boys and girls.

15. Mr. TAYLOR (United Kingdom) said that prior to the volcanic eruptions, disabled children had been looked after by the State and the local branch of the British Red Cross Society. However, all personnel specializing in the education of disabled children had since left the island. Until their replacements should arrive, the less severely disabled children had been integrated into primary schools, which posed a challenge for teachers, who had not been trained to perform that task. The more seriously disabled children were being cared for abroad. Most truants were boys because parents found it quite acceptable for boys to go to the beach and enjoy

the sea breeze, while their daughters remained at home and read. The Ministry of Education was well aware of the problem and would do all in its power to remedy the situation. The legal minimum age of sexual consent was 16 for both sexes.

16. Ms. KARP asked what the situation was in the various Territories with regard to legislation; coordination; establishment of a comprehensive plan of action; monitoring; the possibility of establishing an independent institution to hear children's complaints; education; and awareness campaigns.

17. Mr. DOEK asked what practical difficulties had prevented the Children Law from entering into force in the Cayman Islands, and whether there were plans to reduce the age of majority from 21 to 18 in Bermuda.

18. Ms. TODD (United Kingdom) said that once Bermuda had become party to the Convention, a National Child Rights Committee (NCRC) had been established there. Comprising representatives of the Government, civil society, non-governmental organizations (NGOs) and youth associations, its mandate was to assess the state of observance of children's rights and to consider ways of implementing long-term programmes. The committee worked in partnership with civil society, families and children. It was also part of a child protection team that looked after children in hospital, and of a team that intervened actively in all other contexts.

19. One of Bermuda's strengths in the area of child welfare was that the Department of Health, the Department of Child and Family Services and the Department of Financial Assistance all came under the Ministry of Health and Social Services, which was very helpful for coordination and the impact of ministerial decisions. When parents were unable to provide for their children's needs, the first response was not to take the child into care, but rather to help them assume their parental responsibilities.

20. A screening programme for developmental abnormalities in children under 2, involving their parents, had been set up and a Children Act had been drafted on the basis of the Convention and the 52 recommendations of the Task Force on Child Abuse. That Act provided that the views of the child should be taken into account, especially in matters of custody. It had also been prescribed that children should have access to advocacy to help them through the procedure, and the Child Care Placement Advisory Board closely monitored the situation of all children in care. Mandatory reporting of suspected child abuse was also the subject of a provision, as was the establishment of a Child Abuse Register in an effort to prevent recidivism. The new Act empowered the courts to order that abused children should remain with the family and that the perpetrator should leave.

21. Ms. O'NEAL (United Kingdom) said that the Government of the British Virgin Islands had not planned to prepare a separate Children Act, but was intending to make a number of amendments to the Juvenile Act. Those included mandatory reporting of child abuse, and the establishment of a Child Services Board, on which representatives of all services involved in child protection would serve. The British Virgin Islands would also shortly be receiving technical assistance and training support from UNICEF.

22. In the field of coordination, the Intersectoral Social Services Committee was already in place and, in accordance with the UNICEF programme, a child rights committee responsible for project implementation and awareness-raising was due to be established. The Human Rights Reporting Committee, responsible for determining conformity of the Territory's legislation and programmes with the international conventions applicable in the British Virgin Islands, was currently preparing recommendations for submission to the Government.

23. School syllabuses did not as yet provide for education on the Convention, but discussions on the subject had been initiated with the Department of Education. The Intersectoral Social Services Committee also planned to create a post for a child to serve as national spokesperson for promotion of the Convention. In addition, the British Virgin Islands participated in regional projects for enhancing cooperation with the other Overseas Territories.

24. Mr. CHRISTIE (United Kingdom) said that the Cayman Islands' Children Law 1995 had not yet entered into force because the Government had deemed it unenforceable as it stood. The Executive Council had appointed a steering committee which had entrusted a working party comprising representatives of the Police Force, the Departments of Social Services, Health, Education and Immigration and the Ministry of Community Development and Youth Affairs to undertake an in-depth review of the Law. The bill to revise the Law could not be adopted before the election of the Legislative Assembly in November.

25. The Government had, as far as possible, enforced the principles enshrined in the new Law as though it were already in force. Although it was as yet under no obligation to do so, it had requested the Ministry of Health, Drug Abuse Prevention and Rehabilitation to take certain measures to assure the well-being of the children affected.

26. The reservation to article 37 (c) would very probably be withdrawn. In fact, it was planned to build separate establishments for children in detention, where they could pursue their studies. Work was to begin in November and the British Government would most likely request that children detained in other islands of the region should be housed there. Where coordination was concerned, a draft national youth strategy - the outcome of discussions among governmental and non-governmental youth agencies - was being prepared by a joint steering committee.

27. There were plans to appoint a children's ombudsman; it had not yet been decided whether that person would be empowered to hear complaints from children or their representatives, but a mechanism for doing so already existed: children could approach the Department of Social Services, the Juvenile Bureau, certain special police units, school counsellors and social workers or call a free "child line" run by the National Council of Voluntary Organizations. The Department of Social Services and a multidisciplinary child protection team spearheaded awareness courses to encourage all persons working with children to report cases of child abuse.

28. The United Kingdom Government had commissioned a study into the effectiveness of the human rights provisions in the Overseas Territories. Since, unlike other Territories, the Cayman Islands had no bill of rights, a decision needed to be taken on whether one should be enacted, or whether all the bills of rights should be replaced by an international treaty such as the European Convention on Human Rights.

29. Mr. LANGRIDGE (United Kingdom) said that the Children Ordinance promulgated by the Falkland Islands Government in 1994 was largely based on the United Kingdom's Children Act 1989. Given the small number of children in the Falklands (350) and the close collaboration among the various departments and units involved in children's issues, problems that emerged could be rapidly addressed and resolved. Children aged 8-16 had the opportunity to learn what their rights were, through educational programmes. It was, however, also important to address the issue of children's responsibilities in tandem with that of their rights.

30. Where protection was concerned, two social workers from the United Kingdom had been recruited to deal with abused children, and the Legislative Council had recently promulgated a law to ensure that children's testimony was videotaped. There was no specific mechanism for receiving complaints from abused children. School personnel were, however, prepared to listen to them, while children living in very remote areas could speak to a teacher who visited their region to give them lessons.

31. Ms. ELLICK (United Kingdom) observed that St. Helena was one of the most remote places in the world and that its inhabitants seldom had any choice but to leave the island to find work. Consequently, one of the social workers' main concerns was the welfare of children whose parents worked abroad and who generally lived with the extended family. For three years the St. Helena authorities had enjoyed the services of a consultant, who, among other things, had helped set up a child protection group composed of representatives of the Social Services, Health, Education, and Police Departments, as well as charitable organizations. That group, which also looked into the situation of families, had already helped resolve numerous problems.

32. A hotline for children allowed them to be listened to and receive advice at any time. In addition, a mechanism that enabled all parties involved in the activities of the Juvenile Court to consult agencies and departments working with minors had recently been established and had also proved very useful.

33. At the legislative level, the authorities had undertaken to review the Child Care Ordinance 1996 (also in force in Ascension and Tristan Da Cunha), once its inadequacy had been detected in connection with the recent arrival of a Burundian child.

34. Mr. FIFOOT (United Kingdom) stressed that Anguilla and the Turks and Caicos Islands were among the poorest and least populous Caribbean Overseas Territories and that their services were consequently limited. As far as the penal system was concerned, those Territories continued to enforce the Juvenile Act and the Juvenile Courts Act. Although still in effect, they were both antiquated instruments, which was why Anguilla had prepared a draft Children Law, which was shortly to be examined. A strategy to curb youth crime and a five-year education plan had also recently been adopted there. In addition, the Turks and Caicos Islands had undertaken to prepare new child-protection legislation, as well as a five-year education plan and a plan of action on nutrition. It should be pointed out that the measure whereby children removed from parental custody were placed in special care institutions in Jamaica had not been applied to any child since 1994.

35. The reservation entered by Great Britain to article 37 (d) of the Convention had never been applied to its Overseas Territories. Nevertheless, three other pertinent reservations concerning articles 22, 32 and 37 (c) respectively had had to be duly maintained because of certain special characteristics (remoteness, small size, tiny population, and differing definitions of the child). The Committee's expressed interest in that matter would, however, be brought to the attention of the authorities, who would look into the possibility for change.

36. Ms. SARDENBERG requested details concerning government anti-discrimination measures in Bermuda and the British Virgin Islands on behalf of children born out of wedlock, and steps to address the problem of early pregnancies and improve the situation of single-parent families. She would particularly like to know whether there were any parent education programmes in those territories.

37. Mr. DOEK, noting that in certain territories persons under 17 were not regarded as children, while the Convention was concerned with persons under 18, asked whether steps would be taken to remedy the situation. On the subject of the age of criminal liability, since children were rarely prosecuted before the age of 14 and were, therefore, deemed incapable of breaking the law before that age, why was the age of criminal liability not raised? When children were prosecuted, to what bodies were they referred? And what criteria were used to determine that a child had acted with full understanding of right and wrong?

38. He asked what specific measures were taken to promote not only children's right freely to express their views, but also their participation, at school for instance. He also wished to know what methods were used for periodic review of the situation of children placed away from their families. He was pleased to observe that Bermuda had instituted an inspection system in which visits were paid to children in centres and homes, and inquired whether other territories had put similar mechanisms in place. He would also like to know what was being done to sensitize the public to the problem of abused or neglected children, and what procedures existed for reporting cases of domestic violence, with a view to action.

39. According to the report in respect of Bermuda, overseas students studying at British universities were normally charged higher fees than United Kingdom residents. Could that practice not be described as discriminatory?

40. Ms. RILANTONO noted that the minimum age of admission to employment was generally 14 for light and part-time work in the Overseas Territories. However, education was compulsory up to age 16. Fearing that the possibility of employment might encourage school-age children to abandon their studies, she inquired what was understood by light work and how many hours of work were deemed acceptable for a child. She deplored the fact that the Overseas Territories had not yet ratified International Labour Organization (ILO) Conventions Nos. 138 and 142 on minimum age of admission to employment and elimination of the worst forms of child labour, respectively.

41. What was being done to guarantee children's access to appropriate information, and what results had been achieved? Was there religious instruction in schools? What explanation was there for the abundance of female heads of family in all the Overseas Territories? And what social assistance did those families receive?

42. Mr. FULCI asked what was the position of all the Territories with regard to the reservation to article 32.

43. The report indicated that children born in hospital were duly registered in certain Territories. What happened to those not born in hospital? In St. Helena there was no time limit for registration of births. Did that mean that parents who did not register their children were not sanctioned in any way? Moreover, were there any data concerning children sent abroad for adoption, or statistics on international adoption of children born in the Overseas Territories, including on the countries of destination?

44. Child abuse appeared to be a major problem in the Caribbean Overseas Territories. The report of the Task Force set up by the Government in 1996 to investigate the phenomenon in Bermuda contained highly disturbing information, especially concerning physical and sexual abuse of children. Had any measures been taken as a result?

45. Ms. TIGERSTEDT-TÄHTELÄ observed that the Territories' legislation contained various anti-discrimination provisions, but no general clause prohibiting all forms of discrimination. It was therefore important for them to envisage adopting such a clause, modelled on the Convention. She also stressed that the need to guarantee equal treatment of all children did not mean that they must be treated uniformly, since certain groups (such as the disabled) needed more sustained assistance.

46. Ms. KARP reaffirmed the need to prohibit corporal punishment both in the home and at school. She also asked whether any follow-up had been given, especially in the Caribbean, to the Caribbean Youth Summit on Adolescent Sexual and Reproductive Health and Rights, held in Barbados in 1998. She understood that none of the Territories that banned homosexuality had lifted the ban although they had been urged to do so by the British Government. Why was that?

47. How was it that in the Falklands no thought had been given to raising the legal minimum age for consumption of alcohol, which was currently 5 years of age in a private place? Also, was it reasonable for parents of children obliged to attend secondary school in Stanley to be required to pay for their accommodation?

48. Certain Territories still practised discrimination against children born out of wedlock. Was it planned to take steps to put an end to that situation? With regard to the fight against drug abuse, what had been the impact of current programmes? Why had a new strategy on that issue been established in Bermuda? And what did it comprise?

49. Ms. TODD (United Kingdom) said that the Bermuda Constitution provided for the protection of all persons residing on Bermudan territory against all forms of discrimination. Bermuda's Human Rights Commission was authorized to hear children's complaints and conduct inquiries. When it came to inheritance, children born out of wedlock were penalized in favour of children of married couples, but there were plans to amend the relevant laws in the near future.

50. The Constitution endowed children with the right to testify in their own favour before the courts, in default of which the judge refused to hear the case. Special heed was taken of children's opinions in anything to do with custody or adoption. With regard to periodic review of placements, the Protection of Children Act was in the course of revision, and an initial series of amendments had already been proposed.

51. One component of human rights had been integrated into the secondary-school syllabus, and Bermuda intended to expand such education to all the country's schools. An educational video had been produced for use in schools.

52. Where sexual abuse and the obligation to report it were concerned, Bermuda placed emphasis on raising public awareness. Alert to the fact that prevention depended on imparting information to parents, children and the public at large, each year the authorities, in cooperation with the NGOs and the other organizations present in the country, organized the Sexual Assault Promotion Month and International Children's Day. The unit in charge of investigating child abuse had based its recommendations on the legal provisions on child protection, particularly those relating to mandatory reporting of suspected sexual abuse, to awareness-raising among the child population and to the training of professionals involved with children. If funds were available, Bermuda would create, in collaboration with the police, an action unit responsible for combating domestic violence. The Young Offenders Act was being revised with a view to raising the age of criminal liability.

53. The Employment of Children and Young Persons Act also needed review. The Prime Minister had urged that the matter should be assigned top priority. Bermuda would supply additional information on the subject with its next periodic report.

54. Bermuda endeavoured to provide financial assistance to all persons in difficulty, including single-parent families with women as heads of household, which were particularly vulnerable inasmuch as they lived on only one salary. Such families received housing assistance and allowances for children in their charge, which covered day-care fees.

55. Ms. O'NEAL (United Kingdom) explained that the British Virgin Islands had recently abolished judicial corporal punishment and hoped that that measure would open the way for total abolition of the practice in schools and in the home.

56. While there were no reported cases of adoption of children from the Virgin Islands, some parents did adopt children from other Caribbean islands, chiefly Saint Lucia and Haiti. All those adoptions were coordinated by the Social Development Department and the institution in the child's country of origin.

57. The Virgin Islands had many single-parent families headed by women, and a recent survey had revealed that 15 per cent of them lived below the poverty line. Consideration was currently being given to how those persons could be helped, and various services and a financial assistance mechanism were being set up.

58. The Virgin Islands had no plans to raise the age of criminal responsibility, which was currently 10, but intended to establish alternative sentences so as not to imprison children.

59. The Social Development Department regularly monitored all children in foster families. In tandem with the adoption of the Mandatory Reporting of Sexual Abuse Act, the Virgin Islands had set up a programme to teach persons involved with children, especially teachers, to recognize children at risk so that they could benefit from specialized services.

60. Children born out of wedlock were not discriminated against with regard to education and access to services, but they had no right of succession in the absence of a will in their favour. For religious reasons, the population was opposed to any change in that field.

61. Pregnant teenagers were authorized to continue their studies if they so wished, and the Education Department had launched a special programme for looking after the younger ones.

62. Mr. CHRISTIE (United Kingdom) said that the Cayman Islands and other Overseas Territories had not expressed their intention to remove the principle of presumption of criminal liability from their legislation. That principle obliged magistrates to provide prima facie evidence of a child's discernment capacity. If the United Kingdom had decided to abolish that principle from its legislation it was because it believed that the very essence of judicial instruction was to determine, on the basis of the evidence, whether the accused had acted with full understanding of the situation. In that case, the principle added nothing to the protection of a child accused of committing a crime.

63. No child under 12 had been found guilty of an offence in the Cayman Islands in 1999. The Cayman Islands had no really satisfactory answer to the question why it did not raise the age of criminal responsibility from 8; in any event, it was aware that article 40 (3) (a) of the Convention did not stipulate a precise age, proof that consensus had not been reached on the subject among its drafters.

64. Since 16 was the age of consent for heterosexual relations and 18 for homosexual relations, only children aged 16-18 were affected by the homosexuality provisions. On that subject the European Commission on Human Rights had ruled against the United Kingdom, in its conviction that to establish different ages for heterosexual and homosexual relations was in itself discriminatory. The United Kingdom had announced its intention to legislate on the matter to eliminate that anomaly.

65. Mr. TAYLOR (United Kingdom) said that primary and secondary schools in Montserrat gave catechism classes but persons of other religions were free not to attend.

66. Single parents abounded in Montserrat. Quite often parents did not live together; the child remained in the mother's charge, with the father paying occasional visits.

67. Turning to corporal punishment, he said it would in fact be desirable to review the legislation since the main schools and parents still felt they had the right to inflict reasonable corporal punishment on children.

68. Mr. LANGRIDGE (United Kingdom) agreed that the age of criminal liability needed to be raised in the Falkland Islands, even though no child aged 10-14 had been found guilty of an offence in the previous six years. He undertook to draw the Attorney-General's attention to the matter.

69. In a small community like the Falkland Islands, it was easy to alert the population to the problems of sexual abuse and negligence, since news of that kind travelled fast and awareness came on its own. On the subject of homosexuality, a person under the age of 18 could not consent to homosexual relations under British law; if that law were to be amended, the Falkland Islands would follow suit. Where private consumption of alcohol was concerned, it was hard to understand what had prompted the legislator to establish 5 as the minimum age of consumption in private.

70. Registration of births was automatic in the Falkland Islands for all children born in hospital. Children were encouraged to express their views. The law prohibited the employment of children of school age for more than two hours a day; it was therefore impossible for truancy to be influenced by a child's work. Religious instruction was prohibited, but courses in comparative religion were provided in order to give children an idea of the world's different religions. The Falklands took care to protect children against all forms of discrimination, especially in education. It was indeed unreasonable that university fees of residents of the islands should be eight times higher than those of students from the United Kingdom. Parents whose children went to school in Stanley had to contribute to their school fees, but those were minimal compared to the real cost of a year's education and were waived for families in financial difficulty.

71. Although the Education Ordinance authorized corporal punishment in schools for boys 11 or over, it had not been inflicted for years; thought could indeed be given to its abolition.

72. Ms. ELLICK (United Kingdom) said the birth registration system in St. Helena was not flawed, since parents were required by law to report a child's birth to the Registrar General's Office within 21 days. The number of adoptions was very small in St. Helena, but foster-family placement service did exist. The social services were extremely vigilant and closely monitored the situation of children thus placed. In order to prevent sexual abuse and cases of negligence, persons in contact with children were made aware of the problem and learned to detect cases of ill-treatment.

73. Mr. FIFOOT (United Kingdom) explained that the respective Constitutions of the Turks and Caicos Islands and Anguilla provided that no law could advocate measures that were discriminatory in themselves or on account of their effect. On the subject of child labour, the Turks and Caicos Islands prohibited the employment of children of school age during school hours, while Anguilla prohibited work by children under 14, and of those under 17 during the academic year. For the two ILO Conventions on child labour to be introduced in those two Territories, they would need to be consulted in advance, and that had not yet been done.

74. Mr. DOEK, returning to the age of criminal responsibility, stressed that no general rules could be formulated on the basis of potential specific cases or heinous crimes. While it might be true that article 40 (3) (a) of the Convention did not establish a specific age of criminal responsibility, which proved that the drafters had not reached consensus, that did not mean that most of the 191 signatory countries did not wish to set it at older than 8.

75. Ms. KARP considered that the first question to be asked was whether criminal proceedings, with all they entailed, could reasonably be initiated against children, or whether it was not better to regard the authors of minor infractions as victims of society who deserved to be treated accordingly.

The meeting rose at 6 p.m.

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Twenty-fifth session

SUMMARY RECORD OF THE 649th MEETING

Held at the Palais Wilson, Geneva,
on Friday, 22 September 2000, at 10 a.m.

Chairperson: Ms. OUEDRAOGO

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GENERAL DISCUSSION ON "STATE VIOLENCE AGAINST CHILDREN"

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GE.00-44619 (E)

The meeting was called to order at 10.05 a.m.

GENERAL DISCUSSION ON "STATE VIOLENCE AGAINST CHILDREN" (agenda item 5)

1. The CHAIRPERSON on behalf of the Committee, thanked the United Nations High Commissioner for Human Rights, the Special Rapporteur of the Commission on Human Rights on torture and the representative of the Committee against Torture for marking, by their presence at the general discussion, the importance they attached not only to the Committee's work, but to the rights of the child in general.

2. Ten years since the adoption of the Convention, and after nearly a decade of work, the Committee had come to the sad conclusion that violence against children remained a very serious problem. The legislation, policies and programmes in many countries were insufficient to protect children, who were vulnerable to violence even in situations where they should enjoy the most protection. The Committee had decided to convene two days of general discussion in order to identify the causes of the problem and find appropriate solutions. The current general discussion would concentrate on violence against children under the protection of the State.

3. While primary responsibility for protecting children lay with their parents, States, by virtue of their commitments inter alia under the Convention, had the responsibility to protect all children living in their territory. Their responsibility was still greater when parents were unable for various reasons to assume their responsibilities.

4. Violence inflicted during childhood clearly had repercussions even in adulthood. The conclusions of the day's discussion should help break that very dangerous vicious cycle, which devastated the bodies and spirits of children, and ultimately shattered their souls.

5. Ms. ROBINSON (United Nations High Commissioner for Human Rights), noting the very large number of persons in attendance, including many experts on the rights of the child, said that the holding of a general discussion on State violence against children reflected the Committee's dedication to the protection of children's rights.

6. The days of discussions organized by the Committee had been significant and fruitful occasions. The very first discussion had in 1992 been devoted to the involvement of children in armed conflict, and had set off a series of events, studies and measures which had culminated in the adoption in May 2000 of the Optional Protocol on the involvement of children in armed conflict. The work done during the current general discussion could make a real difference by enhancing the commitment of States and of the international community to combating State violence against children.

7. She noted with satisfaction that a member of the Committee against Torture and the Special Rapporteur on torture were taking part in the general discussion. State violence against children should be of concern to all human rights mechanisms and all human rights defenders. It was therefore commendable that the Committee had taken the initiative of addressing the issue jointly with representatives of those and other bodies.

8. The Office of the United Nations High Commissioner for Human Rights (OHCHR) consistently sought to enhance the impact of the treaty bodies' work. The presence of the international children's rights community, including numerous non-governmental organizations, demonstrated the importance attached to the Committee's activities.

9. State violence against children was a matter of serious concern. During her visits to countries such as Russia and Brazil she had seen the urgent need for action to protect children from violent and abusive treatment in care institutions, on the streets and in detention. A lack of resources had never been accepted as a reason to delay full implementation of civil and political rights, and the right to be free from torture or abuse was clearly a fundamental one. When violence was committed against children, the most vulnerable group in society, effective remedies and prevention were of the utmost urgency.

10. Many States which were strongly supportive of high standards for children's rights were unable to fulfil their obligations. During a recent visit to Mongolia, for instance, she had been invited to visit a prison on the outskirts of the capital, where conditions were particularly bad. Far from hiding that fact, the Mongolian authorities were pleading for resources and programmes to assist in improving conditions of detention for minors and others.

11. While it was essential to denounce violations of the human rights of children, the Committee had taken the wise decision to focus the general discussion on identifying examples of best practices most likely to produce improvements. The resulting recommendations would become a source of guidance for States and all those seeking to protect and promote the human rights of the child. In the final analysis, improvements must be brought about through efforts at the local, regional and national levels. OHCHR sought to use its own limited resources to act as a catalyst, helping others to deliver the necessary advice and assistance. Civil society could and must play a crucial role in ensuring observance of international human rights standards.

12. The Committee had rightly pointed out that children were entitled to an environment conducive to development, including physical, mental, spiritual, moral, psychological and social development, in a manner compatible with human dignity. Nothing could be more harmful to the full development of children than violent victimization by those in whom they should be able to place their trust.

13. Mr. DOEK said that because violence against children often defied the human imagination, many people denied the phenomenon altogether. Worse still, others tried to justify it, contending that it was necessary for the treatment of very problematic or uncontrollable children who needed or even "deserved" serious correction. It was important for the participants in the current general discussion to recognize that efforts to curb State violence against children could meet a great deal of resistance, not only because of the reluctance of politicians to be confronted with the problem, but also because of the denial or justification of violence on the part of the public.

14. It was the Committee's hope that the current general discussion would draw up clear and practical recommendations. The numerous written contributions already received provided a strong basis on which to build.

15. A recent study of the emotional and behavioural functioning of African-American children who had been exposed to community violence in the inner city had found that exposure to violence was significantly related to post traumatic stress disorder. For about a third of the children, danger had replaced safety as the organizing principle in their lives. Anyone who associated State or public violence against children exclusively with treatment in institutions or with the plight of street children should read There Are No Children Here, the story of a family in a Chicago housing project.

16. Far too many children were tortured, abused or exploited while in the care of others, and many more were witnessing violence. While violence against children took many forms, the Committee had determined that it would be nearly impossible to define them all. It had also concluded that a single day would not be sufficient to hold a general discussion on all forms of violence against children, and it had therefore decided to devote the discussion day at the current session to State violence, and the discussion day in 2001 to violence in the home and in schools.

17. For practical reasons, the current discussion would distinguish between violence against children in the care of the State and violence in the context of maintenance of law and order. Participants were called upon to follow the Committee's lead in avoiding attempts to define or compare the various forms of violence, even if that meant some overlapping could occur. The objectives of the discussion were to analyse the nature, extent, causes and consequences of the two forms of violence; to examine policies for their prevention and reduction and for the treatment and rehabilitation of their victims; and to formulate recommendations for concrete, effective measures to be taken by the States parties.

18. The personal commitment of each participant gave reason for confidence that the discussion day would be successful. While the problem of violence against children could sometimes defy the human imagination, the participants' imagination could in its turn be put to good use; they must use it to draw up effective recommendations and create hope for children who were victims of State violence.

19. Mr. SILVA HENRIQUES GASPAR (Committee against Torture) said that the purpose of the general discussion on State violence against children was to identify, analyse and explore acts and omissions by State agents which affected children placed for whatever reason under the authority of the State or its bodies. The Convention on the Rights of the Child set high standards for the protection of children. However, some types of protection might be better or more directly afforded by other international human rights instruments.

20. The Convention against Torture offered some important possibilities which could complement various articles of the Convention on the Rights of the Child, especially in respect of conditions of placement in State institutions, forced institutional treatment away from the family environment and many aspects of the juvenile justice process. The Committee against Torture, for its part, should scrutinize the excessive use of detention against minors, conditions of detention of children and the use of force by staff of official institutions, as well as physical and mental mistreatment of children.

21. The Convention against Torture provided two essential references for use in extending the framework for protecting children against State violence: article 1, which contained the only definition of torture in international law, and article 16, under which States were bound to prevent and punish cruel, inhuman and degrading treatment, which meant any act or omission which, as a result of its nature, intensity and circumstances, inflicted physical or mental suffering on a person, or affected the mental condition of the person sustaining it, or caused him or her humiliation, or placed him or her in a humiliating situation. Article 16 could also be applied to extend the protection provided under article 37 of the Convention on the Rights of the Child to children in public care, who were especially vulnerable.

22. Other provisions of the Convention against Torture which constituted additional protection were to be found in articles 10 (training of staff), 12 and 13 (prompt and impartial investigation) and 14 (redress and rehabilitation). Of particular importance was the individual complaints mechanism provided under article 22.

23. Ms. POPA (UNICEF Romania), introducing the sub-theme of mistreatment, abuse and neglect of children in the care of the State, said that three critical principles needed to be made clear. Firstly, the Convention guaranteed to all children, including those under State care, the fundamental rights recognized by its provisions. Secondly, States had a responsibility to care for and protect children denied or deprived of parental care. Lastly, it was most important that children should be institutionalized only as a last resort and as a short-term measure.

24. All inquiries and measures should take the best interests of the child into account, yet despite the fact that the value of placing children in institutions was being called into question everywhere, ever more new institutions were being established around the world.

25. As a matter of basic principle, approaches should be child-centred, the capacities of the family and the community to ensure the realization of children's rights should be strengthened and family and household practices aimed at preventing institutionalization and promoting better child development should be encouraged.

26. Violence, abuse and neglect in State institutions took many forms, ranging from severe physical, sexual or emotional abuse to deprivation, including denial of food, and humiliation, isolation or constant threats. According to a recent survey, children most resented humiliation and sexual abuse. The effects of mistreatment on children included physical injury or stunted development, emotional and behavioural disorders, poor social skills and low self-esteem, which hampered social integration, and loss of contact with their family and community, which increased their vulnerability.

27. Violence could be prevented through legislation on standards of care, greater transparency and accountability, effective monitoring mechanisms and improved research and data. The quality of staff was very important and training should be available. Complaints mechanisms needed to be set up and should operate in such a way as to allow children's voices to be heard. Attitudes among institution staff, communities and families could be changed through education.

28. Measures that could be taken by States to prevent undue reliance on institutional care included developing coherent family policies that empowered families to protect their children; providing alternative forms of care, backed up by adequate financial, material and human resources; and introducing proper judicial oversight, including appeals and periodic review of placements.

29. Mr. RODLEY (Special Rapporteur on torture) said that although there was no evidence that children suffered disproportionately more torture or ill-treatment than adults, it must be recognized that children were more vulnerable to the effects of torture and that it might have a greater impact on them because they were in the critical stages of development.

30. On the specific issue of violence against street children and children alleged to have committed legal offences, he said that in a number of cases, law-enforcement officials had reportedly attacked or encouraged others to attack street children in "social cleansing" operations, and that, in addition to the ill-treatment of juveniles in pre-trial detention, prison or alternative programmes, the issue of corporal punishment should also be considered by the working group.

31. There were conceptual problems pertaining to the definition of "violence against children", and a more detailed study might be necessary. In the meantime, the working group's key objective should be to identify effective measures, policies and best practices in preventing State violence against children, particularly in the areas of alternative sentencing; legislative review; impunity, appropriate remedies and monitoring mechanisms; and sensitization, education and training.

32. In terms of action to be taken at the international level, he said that the creation of an additional mechanism, such as a special rapporteur on violence against children, required careful consideration, particularly if the necessary resources were not to be provided. Given the limited resources available, it might be better to improve the coordination of existing mechanisms, which could no doubt cover all the violations of concern to the Committee. It was also important to identify ways of involving NGOs and civil society at large, both at the national and international levels.

The meeting rose at 11 a.m.